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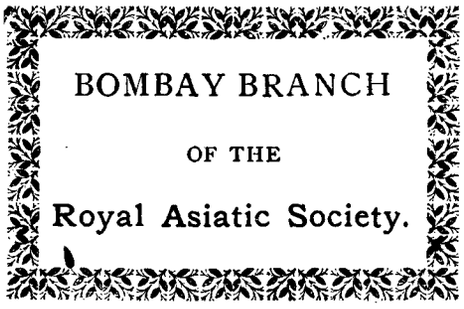

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PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS,

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1873.

Bombay
L. C.
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VOLUME XII.

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Published by the Authority of His Excellency the Governor.

Bombay:
PRINTED AT THE GOVERNMENT CENTRAL PRESS.

1874.

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PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

FOR THE

PURPOSE OF MAKING LAWS AND REGULATIONS.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Friday, the 10th January 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding*.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Affirmation of office, &c., taken by the Advocate-General.

The Honourable A. R. SCOBLE, Advocate-General, took the usual affirmation of office and declaration of allegiance to Her Majesty.

Papers presented to the Council.

The following papers were presented to the Council:—

1. Letter from the Government of India, conveying their approval to the Port Trust Bill being taken into consideration by the Council of His Excellency the Governor of Bombay for making Laws and Regulations.
2. Letter from the Secretary to the Chamber of Commerce, forwarding Report of the Committee appointed by the Chamber to consider the Bombay Port Trust Bill.

THE BOMBAY PORT TRUST BILL.

Colonel Kennedy presents the Select Committee's Report on the Port Trust Bill, explains the general principles of the Bill, and moves that the Bill be read a second time.

The Honourable Colonel KENNEDY, in presenting the Select Committee's Report on the Port Trust Bill, said—I am glad to be able to observe that the principle of the Bill has met with general acceptance, both within this Council and outside. During its passage also through Committee, it has undergone very little alteration in detail, such alterations as have been recommended being

chiefly in correction of clerical errors, and with a view to make the meaning of the clauses more clear and precise. It will be observed that, in effecting such amendments, the suggestions of the Chamber of Commerce have been, in several instances, attended to. For instance in Section 3 it seemed to be thought by the Chamber that it was not intended that the Chairman should also be a Trustee. There was a little ambiguity perhaps in the section as originally drafted, but as the Chairman always was meant to be a Trustee, and must be a Trustee, the clause has now been altered, so as to leave the point in no manner of doubt. Some difference of opinion has arisen on Section 32, and probably some further discussion will now arise as regards this section. I may say that I have no manner of doubt that it is fair and equitable, that if Government should require land they have made over to the Trust either at a certain price or as a free gift for any public purpose, they should be able to take it, striking out the cost of that land as it stands in the capital account of the Trust, and I cannot see that any reasonable objection can be made to this arrangement, which would only probably apply to very small parcels or plots, and is not at all likely to result in wholesale resumption; for what would be the object in granting with one hand to take away with the other? But on the other hand, when the Trust has discharged all its capital liabilities and stands alone and clear of the Government, I can understand that in this case it is fair and right that the Trust should deal with the property, which would thus be unencumbered, as any other owner might do. The point, however, is not one, I think, of any practical consequence, as it must be very many years before the Trust is clear of debt, and by that time it is very possible that a very different state of affairs may exist. On this point I shall say no more at present, reserving what I may have further to say till I have heard the observations of other honourable members. An important addition has been made to the Bill by the insertion of a clause exempting the Trust property from Municipal taxation. This may seem at first sight a somewhat strong measure, but it was thought necessary, because in the absence of such a provision the Trust would have been placed under a heavy liability to the Municipality without the means of securing from the Municipality any equivalent. It will be within the recollection of the honourable members of this Council, that according to the existing and new Municipal Acts there is no provision which compels the Municipality to take over from the owner any street made by a private person, no matter whether such street may be extensively used by the public or not. Now, on the Elphinstone part of the Trust property, which measures 180 acres and is therefore larger than the Fort, there are about eight miles of streets perfectly well constructed, with commodious footpaths, and drained throughout, which must sooner or later become in every true sense of the word public streets, and when the Moody Bay part of the estate is completed, there will be six miles more of such streets. Now, if the Trust is compelled to pay Municipal taxation, and to maintain these really public ways besides, it will be placed in a very unfair position. So also with the lighting. At the present moment the Municipality do not light the Elphinstone and Moody Bay estates and there are no means of compelling them to do so under the existing Act; and under the new Act the Bludgeon Clause does not, I am sorry to say, apply either to maintenance of roads or lighting. Frequenters of the Apollo Bunder and persons who use the Mazagon Bunder will see those piers brilliantly and well lighted, and would probably give the Municipality the credit for the arrangement; but they would be wrong, as both the bunders are now illuminated at the cost of the Harbour Board, *i.e.*, of the Port Trust. If, therefore, the Municipality were to force from the Trust a very large revenue and be

under no obligation in respect to it, the arrangement would not be an equitable one, for, it may be remarked, there is no analogy between the Trust property and the private grounds of a private person. Such a person may of course light his grounds, or make roads over them or not, according to his pleasure ; but the Trust property will soon become an integral, and I hope a very busy and populous, part of the city, and will be traversed in all directions by roads that will be at the free service of the people. In this respect there is a great difference between the Trust property here and in Calcutta. At the latter place it consists chiefly of a line of foreshore, with certain piers and jetties projecting from it, and the Municipality do maintain and light the communications right up to the line of foreshore and the jetties. I may here remark that it has been observed that the Trust property derives its value from the circumstance that it forms part of the town of Bombay, but I would submit that it is rather the other way. The Trust property embraces nearly the whole of the foreshore, on which alone can the trade be conducted. Now I think it is the town which derives its chief importance from the trade, for if the trade were to be annihilated where would the town be ? It is for the interest therefore, I think, of the town to foster the trade in every way, and not to overburden it by making it pay heavy Municipal dues, and at the same time perform those services at its own cost for which the dues are levied. It would be right, I think, if an understanding could be come to between the Municipality and the Trust, that the former should treat the Trust property like any other part of the town, and that the Trust should then pay the usual taxes on some portion of its revenue; but when one party is bound, and another is not, it is not always easy to arrive at an equitable solution, and it is in this view that it is sought to leave both parties unbound. There is another point; the Elphinstone property has hitherto paid Municipal taxes to the extent of about Rs. 30,000 a year; but the Trust will come into other sources of revenue which the Elphinstone Company did not enjoy, and which hitherto have not paid Municipal dues. Adding these together, if the exemption it is now sought to secure for them is not obtained, the Trust will be legally liable for a payment of upwards of Rs. 70,000 per annum—a return for which the Municipality cannot be compelled to render any service at all, and under these circumstances it is doubtful whether the Trust could be started with a clear balance sheet. The gentlemen who oppose the exemption had better, therefore, well consider the effect of carrying their views; for it may result either that additional burdens must be laid on the trade, or that the measure must be abandoned for the present at least, for the Trust can hardly be started well, unless there is an equilibrium between the liability and revenue. I wish to notice one other point. The Chamber of Commerce have pointed out what they consider to be an important omission in the Bill. They remark that it contains no provision for a loan by Government to admit of the completion of certain docks and works stated to be required for the accommodation of the trade, and think that such a loan should be granted free of interest till these works have been completed and are ready for use. When the Viceroy was here, this subject was, I believe, brought under his notice, and he gave some assurances on the subject. However that may be, I am now authorised to say, that since his departure, a letter has been received from the Government of India, of which I will now read a portion :—

"These proposals will, of course, require very careful examination before they are forwarded for the sanction of the Government of India. But assuming that Mr. Ormiston's views are declared to be sound, and that on enquiry there is good reason for believ-

ing that the works when completed will ensure an income sufficient to meet all working expenses and the interest on the cost of construction, His Excellency the Governor of Bombay has expressed his readiness, with the concurrence of his colleagues in Council, to propose the introduction into the Port Trust Bill of a clause binding the Government of Bombay to impose on the shipping and trade such charges for the use of the docks not exceeding a maximum to be stated in the clause as will ensure an income sufficient to provide for the working expenses and for all interest."

I think and believe that this will be considered satisfactory by those interested in the matter, but I may add that, on careful consideration, it has not been considered advisable to complicate this Bill with the question of a dock loan. The discussion that will probably arise as regards the works to be executed, and in dealing with the question in its financial aspect so as to arrive at a solution satisfactory to all parties, will probably occupy some time, and it is very desirable that this Bill should be passed, and that a trust should be established with as little further delay as possible. It has also been considered that the important question as regards these docks and the loan that is required to admit of their construction, can best be settled with the assistance of a body so competent to advise as the new Trust will doubtless be, for when the Trust is established Government will not have, so to speak, to deal with itself, but will have the advantage of hearing the matter discussed in all its bearings by another authority well qualified to aid with valuable opinions on such a subject. It is proposed therefore to deal with the dock question hereafter and as soon after the Trust has been set to work in another and separate Bill. With these remarks I will conclude, reserving what further I may have to say till I hear the discussion on the Bill, which will no doubt now arise. I now beg to move the second reading of the Bill.

The Honourable Mr. NARAYAN—After what has fallen from the Honourable Colonel Kennedy there remains little for me to add. As, however, on the last occasion the purchase of the Elphinstone property was adversely criticized, I will, with His Excellency's permission, controvert the statement which has been made that the purchase of that property was a most unfortunate occurrence. I have no hesitation in saying that before the purchase was completed there was scarcely any difference of opinion as to its being the duty of the Government to resume possession of the foreshore for the well-being of the Port, and that, while the negotiations towards this end were in progress, almost universal satisfaction prevailed at the prospect of a termination of the monopoly which had so long existed in the hands of a private Company. Considering that the promoters of that Company had commenced their work of reclamation so far back as October 1858, and that they had succeeded in reclaiming a portion of the ground at a cost of Rs. 1-9 per square yard, it must be admitted that the price paid by Government for the land was not excessive; indeed many of the original shareholders were almost ruined. It should not be forgotten that the whole of the native trade of Bombay, which was concentrated on the Bunders of the Elphinstone Company, was bound hand and foot to that private enterprise, and that as Government exercised the right under the Customs Act of regulating what goods should be landed on the Bunders of the Elphinstone Company and those belonging to Government respectively, much dissatisfaction was created in the minds of those who were deterred from landing their goods on the Fort Customs Bunder,

Mr. Narayan gives his reasons for his approving of the purchase of the Elphinstone property.

because not only were goods allowed to be landed on the Government Wharves free of charge, but they were even allowed to remain there for some days without the payment of any fee whatever, while the entire native trade had to pay dues to the Elphinstone Company immediately the goods were brought alongside their Wharves. Of course those who had previously the free use of the Government Bunders considered themselves aggrieved; but the commonwealth had the satisfaction of knowing that the imposts on trade were to some extent equalised. It is no doubt true that the great depreciation in the value of land has diminished for a time the prospect of reducing the burdens which the purchase has involved, but any one who takes a dispassionate view of the circumstances of the case must come to the conclusion that the purchase was a boon which will be appreciated by posterity. There is, however, one circumstance in connection with this Bill which I cannot refrain from bringing to the special notice of His Excellency. It is this—the villagers and fishermen at Worlee, Mahim, Sewree, and other places have, from time immemorial, been in the habit of using the seashore to land various articles of food without the payment of any fee. There is not a single wharf or landing-place in these localities, nor has Government incurred any expense in affording these people any facilities for landing goods. I therefore submit that it is hard to bring them under the operation of this Bill, and if this matter receives, as I hope it will, indulgent consideration when the scale of tolls and dues is submitted to Government, my object in alluding to it will have been gained. There are one or two clauses in this Bill which I should be glad to see modified, but I will address myself to the details as each section comes under review. I beg to support the motion.

Mr. Forbes condemns the purchase of the Elphinstone property.

The Honourable Mr. Forbes thought it his duty to state that it was not the unanimous opinion of the people of Bombay that the purchase of the Elphinstone property was either for the benefit of the town or in any way desirable. For his own part he regarded that transaction as a most grievous obstruction and a most unfortunate occurrence for the mercantile interests of the town, and he was quite sure that any one who should now read the correspondence relating to the purchase, but who was unacquainted with the state of affairs in Bombay at the time the transaction was effected and the few years previous, could hardly understand how the Government of this Presidency, having at its disposal the best advice and every means of obtaining information on the subject, could have purchased the property at the exorbitant price paid. Referring to the correspondence, it was looked upon as a matter of certainty that this property was worth from Rs. 60 to Rs. 100 per square yard, or £60,000 per acre, and it was stated at the time that that was a moderate valuation and that the value of land would increase greatly. Instead of that anticipation being fulfilled, he thought there was evidence to show that the land would now only bring some thing like one-tenth of the value set upon it. He himself knew a recent case where Rs. 10 a square yard was considered too high a price for very similar land. As he had said, he regarded this transaction as a most grievous calamity, and he thought the feeling on this question was that the bargain was quite a mistake on the part of the Government and would enhance the burdens on the trade of the Port, and further he thought that this calamity should be dealt with like any other public calamity that arose from either a political or military blunder. He could no more see why the Port of Bombay should be burdened with the total cost of this purchase, than he could see that Liverpool should be

saddled with the total amount of the money paid in satisfaction of the Alabama claims. He thought the cost of the Elphinstone purchase should be borne by the Imperial Revenues of India and not by the Port of Bombay; and that considering this, they ought to take carethat the burdens on the Port were not increased in consequence of the price paid for this property. He had something to say on one or two points in the Bill, but he would reserve his remarks till the sections came on for consideration in detail.

The Honourable Mr. TUCKER—I have no wish that there should not be any discussion on the policy pursued by the Government of His Excellency's predecessor with respect to the Elphinstone Estate; but as the only member of that Government now present who was a party to the negotiations made for the purchase of that property, I wish simply to say that the action of the Government was entirely influenced and governed by what they supposed to be the best interests of this City and Port. It may be that the bargain did not prove as good a one as it was originally supposed to be; but in spite of the Cassandra-like prophecies of my honourable friend on the left (Mr. Forbes), who is prone to take a gloomy view of what is going to happen, I still share the hopes of my honourable friend on the right (Mr. Narayan), that the arrangement which was made will not prove as unfortunate in its consequences as is now anticipated by some persons. Of course, as to the wisdom or prudence of the transaction every one has a right to his own opinion, and I have no desire in any way to prevent the free discussion of the question—on the contrary, I am quite ready to afford any explanation that may be thought requisite.

The Honourable the ADVOCATE-GENERAL—I did not intend to take any part in the discussion upon the motion for the second reading of this Bill, but after what has fallen from the Honourable Mr. Forbes I may be allowed to make one or two statements with reference to facts. It so happens that at the time the Elphinstone property was acquired by Government, I was a Director of the Elphinstone Company, and I am therefore in a position to state, for the information of my honourable friend on the right (the Honourable Mr. Forbes) and through him of those portions of the public who are not aware of what did take place at that time, that a considerable number of shareholders were opposed to the sale and that one of my colleagues in the direction of the Company, a gentleman of great mercantile experience, actually retired from the Board rather than be a party to a step which he considered to be a movement in the wrong direction. For my own part—and I think I may speak for the rest of the Directors.—I considered that Government had offered us handsome terms—terms which, considering the position of the market, it was wise for us to propose for acceptance by the shareholders. Our shareholders accepted these terms, but unless some such terms had been offered to us I do not believe that they would have sold their property. As to the value of the property, I may remind the honourable gentleman that the late Lord Mayo described it as the most magnificent site for trade he had ever seen, and it certainly was not supposed by the shareholders that they were making anything more than a fairly advantageous bargain with Government. With regard to the future of the Trust I will forbear from making any forecast. Unfortunately, we all know that the trade of Bombay has been in a depressed state for many years, and that the depreciation in the value of land which has resulted has had its effect upon the value of the Elphinstone property as upon all others; but I for one do not agree with the Honourable Mr. Forbes that the purchase by Government of this property has been a

The Advocate-General justifies the purchase.

serious calamity for Bombay. On the contrary, I believe that the purchase of the Elphinstone property should now be regarded in the same light as it was when the purchase was concluded—as a step not only warranted but required in the interests of the whole community, and even, I may say, of India. I hope that with the revival of mercantile prosperity in Bombay, the value of the Elphinstone Estate will again rise in value; but I think that when the sale was effected it was justly considered that it would not be wise to allow the whole of what I may call the mercantile foreshore of this port, the great inlet for the commerce of India, to be in the hands of a private company.

His Excellency the PRESIDENT—That was the original mistake.

The Honourable the ADVOCATE-GENERAL—Perhaps; but the Elphinstone Company were not the original grantees; and with reference to what His Excellency has remarked, I may say that if Government had to pay a handsome price to the Elphinstone Company for their estate, that company had originally to pay a very large price to those grantees for the concession of the foreshore.

The Honourable Mr. FORBES—Do I understand the Honourable the Advocate-General to say that the purchase of this Elphinstone property prevented the whole of the foreshore of Bombay from being in the hands of a private company?

The Honourable the ADVOCATE-GENERAL—I say that Government, in purchasing the Elphinstone property, secured the most valuable part of the foreshore—a property upon which nearly the whole business of the native town was carried on.

The Honourable Mr. BYTHELL said that, as he approved of the principle of the Bill now that the letter had been received from the Government of India promising an advance of a million sterling under certain conditions, which he considered very fair, he had not intended to trouble the Council with any remarks but to give a silent vote. However, since the Honourable Mr. Narayan had referred to the statement made by him at the last meeting, he thought he must in self-justification say a word or two. He was sorry that this question had been introduced now, as he thought it would have been better to let it drop. It would be remembered that the honourable member who introduced the Bill, on moving the first reading, had said that the purchase of the Elphinstone property was a boon to the public and that he (Mr. Bythell) had differed with the honourable gentleman, and had stated his reasons for so doing. The Honourable Mr. Narayan had said it was well known in Bombay that the negotiations were in progress, that the purchase of the property had been generally approved by the public at the time, and was considered a boon, a boon especially which would be appreciated by posterity. He could only say for himself that he was in Bombay at the time of the purchase, and that the first announcement he had of the intention of Government to buy the property was the publication of a letter in the daily papers committing the Government to the purchase of the property at a certain price, and he could say that many other mercantile men were in the same position as he had been. Some heard rumours of the intention, but disbelieved them; and he could say, as far as the mercantile community was concerned, that with the exception of the Directors of the Elphinstone Company, he knew of not a single gentleman who had not spoken strongly against the purchase, or who did not consider it rather a mistake than a boon. The Honourable the Advocate-General had just said that the Com-

pany was in possession of the most important and most valuable portion of foreshore as regarded the trading interests; but he differed with that. No doubt at the present time the country trade was mainly conducted on the Elphinstone Bunders; but the great trade which gave importance to the town, the Cotton Export Trade and the Import of Manchester Goods, was carried over either the Fort Bunder or the Colaba Bunders with very few exceptions. Till within a few years, the whole export of cotton had been from Colaba, and therefore the Elphinstone property, though an important foreshore, was not the most important, nor had it the largest trade. And as regards the danger of allowing the Company its monopoly, what monopoly had it?

The Honourable Mr. NARAYAN—The whole of the native trade.

The Honourable Mr. BYTHELL—If it suited any merchant to land his goods on that property he did so and paid his fees; if it suited him to land his goods at a Government Bunder he did so and paid nothing. As it was now, at whatever part they landed their goods they had to pay fees in order to pay interest on the cost of the purchase of this property. As to what the Advocate-General had said regarding Lord Mayo's opinion of the property, he dared say the honourable gentleman would have seen since that Lord Mayo had expressed himself in very different terms after he heard all the circumstances. He would also remind him that before it was known that Government wished to buy the property, the shares of the Company were at a heavy discount, almost unsaleable. The dividend paid by the Company was not more than 3 per cent., and the revenue from the property since Government entered into possession was only 2 per cent., and yet Government gave what was equivalent to a $4\frac{1}{3}$ per cent. dividend as the purchase price. With respect to what the Honourable Colonel Kennedy had said about the Government of India having power to take possession again of any of the land on the same terms on which the Trust acquired it, he thought it was rather unfair to the Trust that such a power should exist. When the negotiation after the purchase of the property was going on, the Government of Bombay addressed the Government of India, representing that it was unfair that the trade of the place should provide a Railway Station for the G. I. P. Railway, and that on that ground £400,000 of the debt should be remitted. The Government of India refused to admit this, but they afterwards gave over property which was worth £400,000 in return. But if the Government retained the right to take possession of that property again at any time on the same terms as those on which the Trust acquired it, they might at any time lose some of the most valuable portions of the property. For instance, it was rumoured at present that the General Commanding this District was anxious to get a slice of the ground between Apollo Bunder and Grant Buildings for military purposes; now, if the Government took that ground on the same terms as the Port Trust paid for it, the Trust would actually get nothing at all for it. He thought the only fair way when Government wished to take possession of any property would be for it to write off from the capital debt a sum equal to the amount the property cost.

His Excellency the PRESIDENT—I don't know how the financial position is to be improved. Is it to be bettered, by better management?

The Honourable Colonel KENNEDY—That is it.

The Honourable Mr. BYTHELL—It has been an accepted principle that the burdens on trade ought not to be increased unless increased accommodation be provided, and the

Government of India therefore remitted debt after debt until they reduced the total to an amount on which interest can be paid by the present income. Now if Government should resume any part of the property and give nothing for it there must be a deficit,and it will be for the Government or the Port Trust to increase the taxation in some way to make up for it.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—SIR,—Honourable Members have expressed their opinions on the question as to whether the purchase of the Elphinstone property by Government was on advantageous or disadvantageous terms. But I do not perceive what the consideration of that question has to do with this Bill. It is quite a foreign question. In my humble opinion the purchase was a very unfortunate transaction to the public on account of the very exorbitant price paid by Government for it. As I have no objection to the principle of the Bill, I vote for the second reading of it, reserving my objection to particular sections to be brought to the notice of the Council when those sections are considered in detail.

The Honourable Mr. FORBES—I did not catch the remarks which the Honourable Colonel Kennedy made with regard to the communication received from the Government of India; but I should like to hear the honourable member's opinion on this point, whether the whole tendency of this Port Trust Bill will be to increase the burdens of the Trade of Bombay or to decrease them.

The Honourable Colonel KENNEDY—I suppose that the honourable gentleman is alluding to the Bill simply as it stands at present and is not referring to the proposal to construct docks or basins, which forms no part of this Bill.

The Honourable Mr. FORBES—I wish information upon the subject on the broades basis the honourable gentleman can give me.

The Honourable Colonel KENNEDY—I think that so far as the Bill stands at present, it will make no alteration whatever upon the existing state of trade. The Bill is merely to provide for the management of the existing sources of revenue, and if the proposed Trust desire to go in for large and heavy works they will, of course, have to count the cost, and make the necessary additional burdens to the trade of the port. It would only complicate matters if we imported this consideration into the present discussion. When these heavy works are determined on a separate Bill will be introduced, and then it will be considered whether the trade can stand further burdens.

His Excellency the PRESIDENT—I do not think that the Government should sanction any more burdens upon the trade of the port of Bombay in respect of anything to be done upon the Elphinstone property, until that property comes into use and the public get the benefit of what they have to pay for. However, so far as I understand the scope of this Bill, I do not think that there is any thing in it to hinder the Trustees from imposing such fees as they may deem to be necessary for the purposes of the Trust as it stands. We may fix a maximum, but Government is not pledged to prevent the imposition of fees. This, however, we may fairly pledge ourselves to look to—namely, that the trade of Bombay shall not be subjected to charges for interest on money to be spent upon the Elphinstone property until the public are getting the full value and use of the improvements to be effected.

The Honourable Colonel KENNEDY—The Trustees will have the power of collecting fees with the sanction of Government, and if they should see fit to decrease the burdens of the port by reducing fees, there is nothing in the Act to prevent them from doing so. As a matter of fact, they may find it necessary to alter their imposts as trade fluctuates.

The Honourable Mr. FORBES—Section 57, referring to the levy of fees, &c., might, I think, work most injuriously, because, supposing a merchant to send goods from England, he would not know what charges might be levied upon them when they had arrived in Bombay.

The Honourable Colonel KENNEDY—These will be matters for the consideration of the Trustees who, the honourable gentleman may suppose, will know best about the necessities of the trade.

After some further conversation,

The Honourable Colonel KENNEDY said—In the few remarks in reply which I have to make, I would say that I regret that any discussion should have arisen about the purchase of the Elphinstone property. I think that at this period such a discussion is a mere waste of time, and I shall not say anything to continue it. The Honourable Mr. Forbes however alluded to some estimate of the value of lands of the Elphinstone property. He says that an estimate was taken in 1869, when certain portions of ground were valued at Rs. 60 per square yard, but that these are now only worth one-tenth or one-seventh of that sum—that is to say, from Rs. 6 to Rs. 9. I do not know where the Honourable Mr. Forbes gets that information from, but it is totally erroneous. We have put up for sale several pieces of the property, and obtained offers up to Rs. 24 per square yard.

The Honourable Mr. FORBES—Was this the other day?

The Honourable Colonel KENNEDY—It was last year. The value of the property all over, including the Boree Bunder, is on an average Rs. 25 per square yard, so that we had thus offered to us a sum equal to the capital value of the portion then proposed to be sold. With regard to what the Honourable Mr. Bythell said about the value of the Elphinstone property as a place for conducting business, I would recall to his recollection a fact which he knows well, that of the total trade of the port, which amounts to 100,000 tons per annum, 50,000 tons come to Bombay over the Elphinstone property. Thus actually one-half of the whole trade of Bombay passes over this estate. I shall not repeat what I said in reference to Government resuming portions of the lands for public purposes, but I may make an observation with regard to the application for part of the land near Apollo Bunder for military purposes. There was such an application, but I think that I am justified in saying that Government would never consent to any project which would involve the alienation from the Trust of a large source of revenue.

The Council proceed to read the Bill a second time.

His Excellency the PRESIDENT put the motion to the Council that this Bill be read a second time.

The Bill read a second time and considered in detail.

The motion was carried, and the Council then proceeded to consider the Bill in detail.

The Honourable Colonel KENNEDY mentioned that Section 3 had been framed in accordance with the recommendations of the Bombay Chamber of Commerce. He thought that it was the impression generally prevailing that the Chairman was not to be a

Trustee, but if there had been any ambiguity on this point in the section, there could be none now, since it was stated clearly that the Chairman was to be a Trustee.

The Honourable the ADVOCATE-GENERAL—With regard to the third section, I would ask if one-third is not a very small number of Trustees who are to be "connected with the trade of the port." The Chamber of Commerce have not, I observe, taken any objection to this proportion; but the Trust appears to me to be one in which the mercantile community is peculiarly interested, and therefore it seems to me that one-third is a very small number of mercantile members for this proposed Trust.

The Advocate-General thinks the proportion of one-third of Trustees in the Trust too small to represent the mercantile community.

The Honourable Colonel KENNEDY—There are other interests in the Trust to be considered besides mercantile interests. The general trade of the place is to be protected, so has the landed interests of the town and other proprietary interests, and if we make more than one-third of the Trust representative of the mercantile interests, I do not know how the other classes of interests can be properly protected. In the Calcutta Trust there is no limit at all mentioned, so that Government are not bound to have one single mercantile gentleman upon the Trust unless they choose. Here we have fixed a minimum of one-third of persons who shall be connected with the trade, and the framers thought this proportion would be fair, and that it would be dangerous to exceed that proportion as a legal enactment.

The Honourable the ADVOCATE-GENERAL—I do not see that the landed interest has any need of precautionary measures being taken for its protection from the Port Trustees. The landed proprietors will only be indirectly affected by the Port Trust, because the Trust will have ample lands of their own on which to erect warehouses in the immediate proximity of the harbour. I observe that one-third is fixed only as a minimum, but my experience in public matters has shown me that a fixed minimum of this kind is very seldom exceeded. No doubt the payment of the interest to Government is a great obligation, but it is a greater obligation to carry on the trade of the port properly, and if the latter is not done, the other interest will not be paid. This is why I wish more of the Trustees than one-third of their number to be connected with Trade, and I do not think it desirable that the mercantile element should be liable to be outvoted by official persons upon important points on which the mercantile community are best fitted to form an opinion. Such a position would be an awkward one for what is presumed to be a mercantile board to be placed in.

The Honourable Mr. TUCKER—I agree with the Honourable Colonel Kennedy that there are more interests than those of the mercantile community to be looked after in this matter, and as only a minimum is fixed in this section, I would point out that if Government consider it desirable to appoint more mercantile members to the Trust than one-third of the entire number of trustees, they are at perfect liberty to do so.

His Excellency the PRESIDENT— I think there is a question as to what is the "trade" of the port. Some seem to consider that it is only the shipping interest, but the trade of Bombay is a large and varied one, and I think that what is intended by this section is, to limit the number of persons in the service of Government.

The Honourable the ADVOCATE-GENERAL concurred with his Excellency the President as to the broadness of the phrase "persons connected with the trade of Bombay," and remarked that under these words retail tradesmen might find a place among the Trustees.

The Honourable Colonel KENNEDY—There can be no objection to amend the section so as to make it a little more clear, but I do not think that a greater number than one-third would be advisable.

The Honourable Mr. BYTHELL—I think that the mercantile community would agree to leave the kind of men that should be elected to the Trust to represent the trade of the port in the hands of Government.

The Honourable the ADVOCATE-GENERAL—My object is solely to keep the official element from swamping the mercantile element, and I therefore think, considering that the trade of Bombay is so wide and varied, that at least one-half of the Trustees should be mercantile men.

After some conversation, the Honourable the ADVOCATE-GENERAL proposed a series of amendments, making section three eventually as follows:—

"It shall be lawful for the Local Government at any time after the commencement of this Act, by order published in the *Bombay Government Gazette*, to nominate and appoint not less than nine, nor more than twelve persons, of whom not less than one-third nor more than one-half shall be persons holding salaried offices under Government, to be Trustees of the Port of Bombay, and by the same, or any other order published in like manner, to nominate one other person to be Chairman of such Trustees, and such persons and the Chairman shall be the Trustees of the Port of Bombay."

The Honourable Colonel KENNEDY—I think that, if the Council desire to protect the interests of the landed interest, they should not increase the proportion of mercantile representatives in the manner which is now proposed.

The Honourable Mr. BYTHELL—The Honourable Colonel Kennedy might remember that it will be very difficult to find landlords in Bombay who are not connected with trade in some way.

The Honourable Colonel KENNEDY dissented to the amendments, which were accordingly put to the vote, with the following result:—

Ayes—6.	*Noes*—2.
The Honourable H. P. St. G. TUCKER.	The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.	The Honourable Colonel M. K. KENNEDY.
The Honourable MUNGULDASS NUTHOOBHOY.	
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	

Section 3 was then agreed to as amended and stands part of the Bill.

Is the Chairman to be a salaried officer?

His Excellency the President asked, regarding Section 6, whether it was definitely settled that the Chairman and Trustees were to be paid.

The Honourable the ADVOCATE-GENERAL thought that they must be paid, because it could not be expected that mercantile men would accept the onerous duties attaching to either Chairmanship or Trusteeship without payment.

The Honourable Colonel KENNEDY remarked that he hoped there was enough public spirit in the mercantile community to lead them to expect that these duties might be undertaken without salaries.

His Excellency the PRESIDENT said the Chairman would have a good deal to do, and it might be advisable to make it a matter beyond doubt that his office should be a salaried one.

The Honourable the ADVOCATE-GENERAL—I understood the Honourable Colonel Kennedy to say that according to the present calculation the Trustees will have a small balance at the end of the year. Does that calculation include the payment of salaries?

The Honourable Colonel KENNEDY—No; that was not taken into account; but nevertheless I do not think the payment of salaries would turn a balance.

The Honourable Mr. TUCKER remarked that at present the members of Council were not fully cognizant of the duties which were to be imposed on the Chairman and Trustees respectively, and he recommended that the section should stand over for future consideration.

The Honourable Mr. BYTHELL said that so far as he could make out, the Chairman must be the executive officer, and it should be a question for Government whether it would be wise to appoint a special salaried officer. If the Chairman were to have a large salary, the Bunder fees or Port dues would have to be increased.

The Honourable Colonel KENNEDY—The framers have always held the idea that the Chairman should have no other duties to attend to than those of the Trust, and if such an office is to be tacked on to the other duties of the Commissioner of Customs or the Collector of Bombay, I cannot but think that the Trust will be a failure. I would much rather see it decided at once that the Chairman should be a salaried officer.

The Honourable Mr. BYTHELL—In Calcutta, the Chairman of the Trust is not a salaried officer, and yet the Calcutta Trust has been anything but a failure.

The Honourable Colonel KENNEDY—The Calcutta Trust is comparatively a small concern.

The Honourable Mr. BYTHELL—But the Calcutta Trustees have effected a good deal of valuable work. They have taken upon themselves the receiving of the entire cargo from a ship's side and being responsible for its safe custody until they deliver the goods over to the consignee. That is a work of considerable magnitude.

The Honourable Colonel KENNDDY—But in Bombay the Trustees will have to look after the management of the land estate, warehouses, and a number of other matters, and this alone will entail a considerable deal of work.

After some discussion, further consideration of the section was postponed.

The Honourable the ADVOCATE-GENERAL—In looking at Section 8, it occurs to me that there is a question as to how much of the Elphinstone Land Estate should be put under the Port Trust. If the bargain made with Government is embodied in the terms of this section, and is a final bargain, then there is no practical use in discussing the matter in Council; but I feel it my duty to say that I think it would be far more advantageous for the Port Trust if a severance of the estate could be

The Advocate-General thinks that the land estate should be divided—part of it to be given to the care of the Municipality, and part to the Port Trust—the object being to relieve the Trust of the expenditure of upholding the whole of the property.

effected—the dock estate being made over to the charge of the Trustees, and the land estate to the Municipality.

The Honourable Colonel KENNEDY—If it was futile to discuss the purchase of the Elphinstone property, I think it is equally futile to discuss the question now raised at this stage. I believe it would be impossible to sever the estate now, and moreover the Trustees must eventually look to the land estate to enable them to pay off their capital debt. They cannot sell their docks or wharves, but there is nothing to prevent them from selling their land.

The Honourable the ADVOCATE-GENERAL—If I were one of the Trustees, I would prefer to surrender the chance of future profits in order to avoid the present burden attaching to the possession of the landed estate.

The Honourable Colonel KENNEDY—I am fully convinced that the property will prove most valuable to the Trustees.

The Honourable the ADVOCATE-GENERAL—That was the view which was taken of the land estate by the Elphinstone Company, but at the same time the present value and the prospective value of the estate are different things. If we are in a position to start this Trust with as few burdens as possible, I think it would be desirable to make over to it the dock estates only. If it is impossible to effect such an alteration now, there is no use talking; but if there is any possibility of our being able to relieve this Trust from the burden of paying interest on the cost of this large landed estate, I should like to see the matter referred back to the Government of India.

The Honourable Mr. TUCKER—I consider that there is now a distinct obligation on Government to keep all the estate under the Trust, and I think it would be impossible to make a severance. The whole of this Bill proceeds on the supposition that these joint estates, when united and transferred to the Government of Bombay, should be again made over to the care of a public body. If this understanding with the Government of India is departed from, then the whole character of our arrangements will have to be reconsidered, and I do not think this Council is competent at the present stage of our deliberations to discuss the whole basis of the agreement.

His Excellency the PRESIDENT expressed an opinion that the question raised by the Honourable the Advocate-General did not properly arise out of the Bill as it then stood before the Council.

The Honourable Mr. BYTHELL—I quite agree with the Honourable the Advocate-General that it would be fairer and more advantageous to the Trust if the land estate could be taken off its hands, because in the meantime the Trustees will have to pay interest at 4 per cent. per annum upon property which brings them only a small income—an income, at all events, which is much less than the interest upon its cost; but seeing that the Government of India stipulated that the whole property, landed estate as well as dock estate, should be taken over by the Trust, and that interest should be paid upon the whole, I do not see that we can re-open the whole case again at this time. The correspondence that has already been published on the matter is voluminous, and if this subject is re-opened another long correspondence will be started, the result of which will be to delay the establishment of the Port Trust indefinitely.

The Honourable Mr. FORBES—If there were the slightest possibility of the Honourable the Advocate-General's suggestion being acceded to, I should at once support it, because the severance would be of the greatest importance to the Trust.

His Excellency the PRESIDENT—The Government of India have made concession after concession to us, and now after having arrived at what promised to be a settlement of the whole affair, if the honourable gentleman propose such a division of the estate as has been suggested, the result will be endless delays, and I think that, considering the spirit with which the Government of India have made the various concessions, they would not be very willing now to agree to any serious alterations of the plans determined upon.

The Honourable the ADVOCATE-GENERAL—I am quite satisfied with the discussion that has taken place, but with reference to the remark of the Honourable Mr. Tucker I think that the question was a perfectly legitimate one for this Council to discuss.

The Honourable Colonel KENNEDY—We are met here to settle the management of the estate. The estate was given under certain conditions, we must take measures for its management as a whole or let it alone, and therefore I do not think the subject started by the Honourable the Advocate-General is a proper one for discussion now.

The subject dropped.

His Excellency the PRESIDENT—In the fifth line, it is said that the lands and property shall "absolutely vest" in the Trustees. I do not think it is desirable that the word "absolutely" should be allowed to remain, because it might trammel the future action of Government, who are simply holding the property through these Trustees for the benefit of the public. If the property is to vest absolutely in the Trustees, it might be argued that it could not be Government property, and therefore all Municipal taxes must be paid upon it

The Honourable Colonel KENNEDY—Absolute powers must be vested in the Trustees so that they may have powers of sale.

The Honourable the ADVOCATE-GENERAL—The Trustees can only hold the property as Trustees and not otherwise, and if they presume to act in any other way than is provided in the Act, then they will be guilty of a breach of trust. The property should, I think, vest in the Trustees, because if it does not there will be considerable practical difficulty experienced in all cases of leases and sales of small pieces of land, in which the Secretary of State would have to intervene. I do not think it would be advisable to call into requisition the ponderous machinery of Government for the letting of pieces of land from year to year, or the storage of timber or coal, and I do not think that there is any thing objectionable in the phraseology of this part of the section. In vesting this property in the Trustees it does not cease to be the property of the public, and it can be resumed by Government at any time under the provisions of the Act.

His Excellency the PRESIDENT—I wish Government to be allowed to hold the titles.

The Honourable Mr. TUCKER—I understand His Excellency to desire that by some limitation of the transfer of the proprietary interest in these lands from the Government to the Trustees, consequences such as the liability of Municipal taxation may be avoided.

The Honourable the ADVOCATE-GENERAL—So far as any right that Government will have to claim exemption from taxation under this Act is concerned, I think that right will

depend entirely upon what are ultimately the terms of this enactment. The question of liability to Municipal taxation is raised in another section.

After some conversation the word "absolutely" was struck out from the fifth line.

It was agreed to use one form of phraseology in the Bill with respect to the Secretary of State—viz., "Secretary of State for India in Council."

In line 12 "said" was struck out and "for India in Council" added after "State," in line 3. The section was then agreed to as amended and stands part of the Bill.

His Excellency the PRESIDENT (alluding to the latter part of Section 9) asked whether it was necessary to use special words exempting the taxation of the property after the enactment on the Municipal Bill.

Should the Port Trust property be exempt from the burdens of Municipal taxation?

The Honourable Colonel KENNEDY—I do not think it would be advisable to leave out the exempting clause. His Excellency will remember that during the discussions on the Municipal Bill the same argument was used, and the Council nevertheless decided that the section exempting Government property should stand.

The Honourable Mr. NARAYAN—Sir,—I beg to propose that lines six to eleven from the word "and" to the word "Bombay" be expunged. The Honourable Colonel Kennedy has expatiated at great length on this question in presenting the report of the Select Committee, but I must confess, that I still fail to understand why this property of Government now to be vested in the Trustees should not contribute its quota towards the conservancy and the police and lighting expenses of this city, as in Calcutta. This Municipality, it must be remembered, contributed three lacs of rupees towards the construction of the overbridges which now adorn the entrances to the respective Bunders which are being vested in the Trustees. This large expenditure was forced upon it in consequence of Government having permitted the G. I. P. Railway Company to make level crossings over the roads leading to these Bunders. One of these Bunders is now set apart for the landing of Troops, and from it the Trustees will derive an annual revenue of Rupees 23,000. This again has necessitated the removal of the night-soil depôt now in its vicinity, and the threatened action at law by Government will compel the Municipality to spend a large sum to take away the nuisance. Our Municipal Commissioner, Mr. Pedder, informed us the other day that the immediate outlay for the removal of this nuisance was estimated at over four lacs. To my mind the argument in respect of the repair of the roads on these Bunders loses its force when the state of the roads in several parts of the outlying districts of Bombay is considered. The Council is probably aware that, with the exception of the two main thoroughfares, none of the so-called roads in the whole of the populous Mahim District are put in repair by the Municipality. The old lanes which have been in existence for years, some perhaps for centuries, are entirely neglected, and the people living in that locality may often be seen during the monsoon wading knee-deep through mud or slush. Now, I ask, can the owners of property and others successfully resist the payment of taxes to the Municipality on that account, on such a plea as that urged for exemption by the Honourable Colonel Kennedy on behalf of the property to be vested in the Trustees? Again, the suburbs of Worlee, Mahim, Chinchpoogly, Wadalla, Matoonga, and Sion have not the benefit of a single lamp, and yet we make the residents of those places pay the lighting

rate, even on their paddy lands. The equity of the principle involved in this matter was argued at considerable length on a former occasion, and the majority of the Council were of opinion that there was no injustice in requiring the people to contribute, because they were benefitted indirectly. If so, there is equally no injustice in recovering taxes from the property referred to, the principle in both cases being identical. It has also been urged that the transferrees, the Trustees, should not be placed in a worse position than that at present occupied by the transferrors. I submit, Sir, that the whole of the Elphinstone estate, which forms the bulk of the property to be vested in the Trust, has up to the date of its transfer to Government paid all Municipal rates, and that those which have since accrued are under adjustment by Government. I scarcely need say that I am not taking any partisan view of this matter, because any action of Government that may tend to reduce the income of the Municipality will only retard local improvements in this terminal port for all India, the sanitation of which is not only a matter of local but imperial importance.

His Excellency the PRESIDENT—What does the honourable gentleman expect to gain by his alteration?

The Honourable Mr. NARAYAN—Rs. 70,000 for the Municipality.

His Excellency the PRESIDENT—How much do the Municipality get from the existing Harbour Board?

The Honourable Colonel KENNEDY replied that the Municipality got nothing from the existing Harbour Board.

Upon this the Honourable Mr. NARAYAN observed that there was a resolution of Government directing payment of the police and lighting rates for these lands.

The Honourable Colonel KENNEDY—There is a resolution, but not a very distinct one. Up to the present time the Municipality have received nothing in settlement of their claims for Municipal taxation. True, they have received some money upon account—that is, a certain amount of liability has been admitted—but no settlement has been made. The whole matter is under consideration.

His Excellency the PRESIDENT—How long has this adjustment been under consideration?

The Honourable Colonel KENNEDY—For a very long time. The subject is one of great difficulty.

The Honourable Mr. NARAYAN—The principle involved in the matter is not different from what it is in Calcutta, where Municipal taxes have to be paid for such properties.

The Honourable Colonel KENNEDY—The settlement now under consideration or adjustment is under the law of Act II. of 1865, but under the new law a totally different state of affairs will be constituted.

The Honourable the ADVOCATE-GENERAL—But the new Bill is not a law yet.

The Honourable Mr. BYTHELL asked the Honourable Colonel Kennedy whether, in estimating the income and expenditure, any provision has been made for the payment of Municipaltaxation?

The Honourable Colonel KENNEDY—Yes; but only to the extent of the sum paid by the old Elphinstone Company.

The Honourable ADVOCATE-GENERAL—Then that admits the principle.

The Honourable Colonel KENNEDY—Of course that is under the old Act, by which lands are liable to Municipal taxation, but buildings are exempted, and the adjustment which is being made now is solely in reference to the liabilities under that Act.

The Honourable Mr. MUNGULDASS—I fully concur with the honourable gentleman in what he has urged in support of his motion and I would not go over the same ground again, but would only add that the chief circumstance under which the exemption of Government properties from the Municipal taxes was urged and carried in the new Municipal Bill, was the Acting Advocate-General's opinion that this Council had no power to tax Crown properties. The opinion of the Honourable Advocate-General is however just the reverse. I would further add that as the Port Trust property would receive protection from the Municipal Police and Fire Brigade, it ought not to be exempted from Municipal taxes. The Municipality has already been deprived of a large revenue in consequence of Government having purchased half of Colaba. If the Elphinstone property, which hitherto paid Rs. 30,000 a year to the Municipality, should now on its being made over to the Port Trust be exempted from Municipal taxation, the loss to the Municipal revenue would be very great indeed; and the proceeding would be unjust and unfair. I therefore vote in support of the motion.

The Honourable Mr. ROGERS—The principle upon which the Honourable Mr. Narayan seemed to base his motion that the Municipality should have power to tax this property, is simply this—that because people on the outskirts of the town have to pay Municipal dues and yet get no benefit whatever in return, therefore the Port Truss should be put in an equally bad position. I do not admit the force of that argument, and I think that the people on the outskirts ought to fight for their rights. It seems to be forgotten that it would be entirely a one-sided bargain if the Municipality were allowed to tax this property, because we can have no guarantee whatever that the Municipality will light or watch over this property. We cannot force them to do so. I think that it is a matter for compromise between the Trustees and the Municipality, and I do not suppose that the Governor-General will object to a compromise being come to.

The Honourable the ADVOCATE-GENERAL—The great difficulty in this matter seems to arise from the impecuniosity of the Municipal Corporation party on the one side and the Port Trust on the other. For my own part, all I have got to say is that I adhere most fully to the opinion which I expressed in the report that I sent in to Government in regard to the Municipal Act, in conjunction with General Marriott, Mr. Hope, and Mr. Dosabhoy Framjee. I can see no reason why Government buildings should be exempted from taxation, and that being so, I can see no reason whatever why the Port Trust property should not also have to pay Municipal taxes. I have no doubt whatever that this Council had power to impose Municipal taxation upon Government property, and that being so, I think this Council has power to impose taxation upon the property which is to be vested in this Trust. Of course my opinion must only be taken for what it is worth, because I believe that the gentleman who acted as Advocate-General while I was in England held quite a contrary opinion. Whether or not this liability is or is not a case for a

compromise is of course a very different affair, and if the Port Trust and the Municipality agree to a compromise, I think such a course will be far better than for this Council arbitrarily to relieve the Port Trust property from Municipal taxation for a number of years. But if there is a compromise, I think it ought to be put into the Act as was done in the case of Act XXV. of 1858, when it was agreed that Government should pay a lump sum yearly in lieu of Municipal taxes.

The Honourable Mr. MUNGULDASS—It was Rs. 13,000 a year.

The Honourable the ADVOCATE-GENERAL—At all events that bargain was recorded in the Act, and I shall be very glad indeed if the terms of a compromise could be agreed on and introduced into this Act. I do not think that the Municipality should be placed in the false position which they would hold if this section were passed as it is, because if they asked for a compromise from the Trustees, the Trustees might turn round and point to this section, saying, "Here is the Act, and by the 9th Section of it you will observe that we are specially exempted from paying Municipal taxes."

The Honourable Mr. TUCKER—I am of opinion that the part of the section which has been objected to ought not to form part of the present Bill. In the Municipal Bill, though we agreed to exempt Government lands and buildings from the occupiers' rates due to the Municipality, there was a general "consensus" of opinion that Government buildings should equitably pay police and lighting rates, and it was announced by His Excellency the President that Government would pay a subvention to the Municipality equivalent to what would be leviable for these rates. If therefore the estates which we are about to hand over to the Port Trust remained in the possession of Government, we should have to pay the equivalent of these rates, and on the transfer of the estate to the Trustees I see no sufficient reason for the continuance of any exemption.

His Excellency the PRESIDENT—It must be admitted that it would be very unreasonable if, in consequence of this section being passed as it is, the Port Trust were placed in a position to refuse to come to any compromise with the Municipality.

The Honourable Mr. NARAYAN—I think it is altogether a matter of principle.

The Honourable Mr. BYTHELL—I intend to vote against the Honourable Mr. Narayan's motion, although in the Legislative Council deliberations on the Municipal Bill I voted against a provision similar to the one he desires to see expunged from this Bill; and my reason for adopting my present position is this. I think that all Government property ought to be taxed, and, as I said during the debate on the Municipal Bill, the English Government have promised to introduce a Bill to make all Government property throughout Great Britain subject to Municipal taxation; but as a majority were of an opposite opinion in this Legislative Council, and a section was put in the Municipal Bill specially exempting all Government property from taxation, I think that, in order to prevent this property being put in unfair position compared with other property, we ought to agree to this section. I certainly should object to the Trust property being compelled to pay Municipal rates while all other Government property is allowed to be exempted. With regard to what the honourable mover has said, that if we throw too great burdens upon the Municipality it will be impossible to carry out local improvements, or at all events that their completion will be retarded for many years, I would point out that on the other hand

if the Municipality are so blind as to be the cause of imposing heavy taxes upon shipping, they will drive the trade away from the port, and (as the Honourable Colonel Kennedy has asked) where will the revenue of Bombay come from then?

His Excellency the PRESIDENT—I think we might allow this section to go as it is, because what the Honourable Mr. Narayen has said is to all intents and purposes covered by the clauses of the new Municipal Bill.

The Honourable Colonel KENNEDY thought there could be no harm done in making assurance doubly sure by adopting the section.

After some further discussion, a vote was taken upon the amendment proposed by the Honourable Mr. Narayan, with the following results:—

Ayes—5.	*Noes*—3.
The Honourable H. P. St. G. TUCKER.	The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.	The Honourable Colonel M. K. KENNEDY.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable J. K. BYTHELL.
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	

The section was then agreed to as amended and stands part of the Bill.

In line 9 of Section 11 "shall" was substituted for "may."

In Section 12 the words "as soon as practicable" were inserted between "President" and "after," in line 7.

The words after "same" in line 8 of Section 14 were struck out down to and including "Secretary" in line 10. The section was then agreed to and stands part of the Bill.

In line 5 of Section 16, the words "three members of the" were struck out, and "Trustees" was substituted for "Trust." The section was then agreed to and stands par of the Bill.

Section 17 raised some little discussion with reference to the powers which the Chairman should be invested with. Consideration of it was postponed.

On Section 18 the Honourable the ADVOCATE-GENERAL moved that the latter part of Section 18 beginning at line 8 should be struck out, and the following words substituted: "And no acts or proceedings of the Trustees, or of any person acting as a Trustee, shall be deemed to be invalid in consequence of its being afterwards discovered that there was some defect in the appointment of any Trustee or Trustees or person acting as a Trustee as aforesaid."

The section was amended as proposed, and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL considered that Section 19 required to be considerably amended. It provided that a Trustee should be disqualified if he were absent from six consecutive meetings of the Trustees without permission from the majority of the Trustees, or who accepted any office or place of profit under the Act, and so forth; but it contained no provision whatever that a man incapacitated by illness or by imbecility, or by insolvency should cease to be a Trustee. In all the acts relating to public bodies, provision was made for cases of this kind.

The Honourable Colonel KENNEDY—But these rules are adopted, because there is no power outside the Bank or public body to remove unfit persons. In the succeeding section here, however, the honourable gentleman will find that it shall always be lawful for the Local Government to direct that the Chairman or the Trustee should cease to be a Chairman or Trustee.

The Honourable the ADVOCATE-GENERAL still believed that the section required amendment, and proposed that in line 10, " any time after " should be omitted and " the time or during the term of " substituted; that " holds or" should be placed before " shall " in line 11; that " save with the sanction in writing of the Local Government " should be omitted from lines 14 and 15; and that in line 20 " or who is or becomes a bankrupt or insolvent " should be inserted before "shall."

The amendments were agreed to, and the section as amended stands part of the Bill.

His Excellency the President then adjourned the Council.

J. NUGENT,
Acting Under-Secretary to Government.

Bombay, 10*th January* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Wednesday, the 15th January 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The real imports and exports of Bombay.

Before proceeding with the consideration of the Bombay Port Trust Bill, the Honourable Colonel Kennedy explained that he had been mistaken in stating on Friday, the 10th, that the total traffic of the port for the year amounted to 100,000 tons. The total of imports and exports really was 1,631,236 tons, of which 945,492 passed over the Elphinstone property.

The Bombay Port Trust Bill considered in detail.

The Council then proceeded with the consideration of the Bill in detail.

His Excellency the PRESIDENT—On referring to one of the sections which we passed the other day—I mean the 8th section—I find that among the lands and properties which it is proposed to vest in the Trustees for the purposes of this Act, are the several bunders, lands, and buildings specified in Schedule C. On referring to that schedule I find that it includes the Customs Bonded Warehouse. There are other sections also in this Bill which appear to vest in the Trustees of the port for the time being the actual control and management of the Custom House and Bonded Warehouse. Now, I want to know whether the Select Committee on this Bill had their attention called to the fact that at present the Customs Bonded Warehouses are strictly and entirely the property of the Customs authorities, and that there are no less than forty-six sections in the Consolidated Customs Act defining their responsibility for the warehousing of goods and giving them entire control over the Bonded Warehouses. To me, it seems that this local Legislature does not possess the power of repealing or modifying sections of, or liabilities created by, an Act of the Imperial Legislature. I am aware that the Bill before us has obtained the consent of the Governor-General for its introduction, but I am not aware that his attention has been drawn any more than mine has to the change that would be effected if

The relative position of the Port Trustees to the Customs authorities.

this Bill were passed as it is. It seems even doubtful whether the Governor-General can give power to a local Legislature to repeal or alter an Act of the Imperial Legislature, and whether such repeal or alterations should not proceed from himself. These, however, are legal questions; and putting them aside for a moment and coming to the question of expediency, I would say that I for one will feel exceedingly unwilling, unless the strongest reasons are given to me, to transfer the power now exercised by the Customs to the Port Trustees, who, as the honourable members are aware, are to consist largely of gentlemen connected with the trade of Bombay—and which power involves the control of a large portion of our revenues. We know that questions are constantly arising as to the control and management—I mean re-packing, re-shipping and the like of goods in the Bonded Warehouse,—and these are matters which involve questions of revenue which are now entirely in the hands of the Customs officers. I certainly think it would be undesirable to make over any part of the power of collecting Customs revenues or the control of the Custom House to this body of Trustees. As I understand the Bill, the officers of Customs would have no real control over their own public warehouse or over new warehouses if these were established—everything would be in the hands of the Port Trustees.

The Honourable Colonel KENNEDY said that there was some provision made for control by the Customs authorities.

His Excellency the PRESIDENT—But how can they possess that if these Trustees are to be vested with the Customs Bonded Warehouses, and are to appoint officers? We know that a large proportion of the trade of Bombay passes through the Customs Bonded Warehouse, but the great object of the Trustees will be simply to secure for the Trust the revenues arising from these warehouses, and there is no reason why these revenues should not be collected by the Customs authorities and handed over to the Trust. The control of the trade will by this means still remain in the hands of the Customs authorities.

The Honourable Colonel KENNEDY—But I submit that under the Customs Act licences may be granted at any time to any person to establish a bonded warehouse, and so far as the control of the Customs' revenue is concerned, of course that will still be under the control of the chief officer of Customs.

His Excellency the PRESIDENT—But I maintain it would be quite impossible for the chief officer of Customs to exercise control over a body such as this Port Trust will be, and I think that the collection of the revenues accruing to the Port Trust for the purposes of this Act could just as easily be carried on by the Customs officers as by the Port Trustees.

The Honourable Colonel KENNEDY—The system of private warehouses is common in almost every British seaport, and in Liverpool it is carried on to a great extent. The rule is that two locks are put upon each bonded warehouse—one in charge of the owner, and the other in charge of an official of the Custom House, called a locker I think.

His Excellency the PRESIDENT—But the honourable gentleman is giving me no reason for imposing upon the Trustees duties which strictly belong to Customs authorities.

The Honourable Colonel KENNEDY—This provision, with others in the Bill, has already received sanction from the Government of India.

His Excellency the PRESIDENT—It is possible, however, that this particular point was not brought to the notice of the Governor-General.

The Honourable the ADVOCATE-GENERAL—As to the legal question, I find that the authority of this Council is very clearly defined in the 42nd and 43rd sections of the Indian Councils' Act, 24th and 25th Vic., cap. 67, and the conclusion I come to is that it would not be competent for this Council to take into consideration any question affecting the Consolidated Customs Act without the sanction of the Governor-General being previously obtained; but as this sanction has been obtained, we are not prevented from discussing matters which may affect the provisions of that Act.

His Excellency the PRESIDENT—As regards the other branch of my objections I have not heard any argument in support of the necessity—I use the word "necessity" particularly—for transferring the control of that great portion of the trade of Bombay which passes through the Custom House from the Customs authorities to the Port Trustees.

The Honourable Colonel KENNEDY—The Bill does not transfer control from the Customs authorities; it merely vests the Customs' warehouses in the Trustees.

His Excellency the PRESIDENT—And provides for the appointment of officers.

The Honourable Colonel KENNEDY—But only officers for Trust purposes.

The Honourable Mr. TUCKER—I should like to ask the honourable mover whether this proposal to transfer what is now a public bonded warehouse, which is under the charge of the Customs Department, to the new Corporation that is to be created by this Bill, has been duly considered in the Executive Council, and whether the officials in the Customs Department have been in any way consulted on the subject. For myself I may say I was not aware that any agreement of the kind had been proposed until my attention was drawn to the clause this forenoon.

The Honourable Colonel KENNEDY was understood to say that he could not answer this question positively.

The Honourable Mr. TUCKER having asked the Honourable Colonel Kennedy whether the head of the Customs Department had been consulted, he said that he could not tell.

The Honourable Mr. TUCKER—Was the matter considered by the select committee? Of course the Trust may create private warehouses hereafter, but has it, after due deliberation, been settled that the present public warehouse is to be handed over to this Trust?

The Honourable Colonel KENNEDY—The select committee have gone through the Bill, leaving it as we have found it, and we know that the Government of India as well as this Government have been cognizant of the proposed arrangement.

His Excellency the PRESIDENT—As I understand the matter, this Bill has been assented to by the Government of India with the view of settling the financial difficulties in connection with the port of Bombay, and with that view they are willing to concede all that lies in their power to place the proposed Trust in a solvent condition. I have no doubt that when it was suggested to them that the Bonded Warehouse should be transferred to the Port Trust, they simply said, "Very well, do so," but that they deliberately intended

to give the Trustees control over the Customs authorities I very much doubt. As it is, my own opinion upon the matter is so strong, that I would prefer to see the subject placed particularly before the Government of India, and I certainly would suggest to them that the control should still remain in the hands of Government.

The Honourable Colonel KENNEDY—A serious part of the matter is this, that the capital value of the Bonded Warehouses has been calculated in the property to be made over to the Trust by Government.

His Excellency the PRESIDENT—Well, estimate the value of the rents and the annual income at so much capital. It is merely a matter of calculation.

The Honourable Colonel KENNEDY—The Bill much as it stands has been before the Government of India for a long time; so that they must have been aware of the arrangement, and, I must say, that the objections which have been raised to-day have taken me by surprise. I cannot conceive how there can be any bonded warehouse, private or public, not under the control of the Customs authorities.

His Excellency the PRESIDENT—I still have heard no reason for the transfer, and I am still doubtful of the necessity for the change. I maintain that the great bonded warehouse of the place, the Government warehouse, which brings revenue to the Customs, should be under the control of officers immediately answerable to Government, and up to this moment, with all respect for the honourable mover, I have not heard a syllable about the need for the transfer of control.

The Honourable Coonel KENNEDY—The difficulty is as regards the capital to be debited.

His Excellency the PRESIDENT—That is to say, the honourable gentleman wishes the Trust to be in the possession of property estimated at a certain value?

The Honourable Colonel KENNEDY—Precisely.

The Honourable Mr. TUCKER—I have not had time yet to look carefully through the Consolidated Customs Act, but I am inclined to think that the control of the chief officer of Customs over this warehouse, as a private warehouse, would remain just the same. I cannot see any distinction as to control between a Government bonded warehouse or a private warehouse, and I do not think that any alteration of the status of a warehouse would affect its liability to be controlled by the chief officer of Customs.

His Excellency the PRESIDENT—That is very true, but the honourable gentleman must have seen enough of the business of life to be aware that it is a very different thing for a Collector of Customs to carry on a contention against an individual owner of a warehouse as compared with carrying it on against a set of gentlemen such as these Trustees will be—gentlemen representing, for the most part, the trade of the port. These Trustees might make alterations which the Customs officers, acting for the interests of Government, might object to; but if they persisted, these officers would have to contend against the whole weight of this new Board.

The Honourable the ADVOCATE-GENERAL—In the 29th section of this Bill I notice that among the works to be carried out and constructed by the Trustees "are tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods

and merchandise landed or to be shipped or otherwise." This, I presume, would include not only the present bonded warehouses, but also others which may be constructed. We are told this Act is not intended to repeal the Consolidated Customs Act, but if the Trustees are to have an establishment of their own to carry out the purposes of this Act, that would bring them into conflict with the Chief Customs authority under the Customs Act of 1863, because by that Act it is provided that any building which is used as a public warehouse must be under the lock and key of some person appointed by the chief officer of Customs of the port or place in which such public warehouse may be situated. Therefore if the Port Trustees are to appoint one set of officers to manage their warehouses, the Customs authorities must appoint another set of officers, and there will be a conflict of authority.

The Honourable Colonel KENNEDY—There can scarcely be any conflict, because on private bonded warehouses there are always two locks, of which the keys are kept, one by the owner of the warehouse and the other by the Custom House Officer.

The Honourable the ADVOCATE-GENERAL—There would be this further difficulty under the Customs Act, that the Chief Customs authority is to determine in what divisions of these warehouses goods shall be stowed, what sort of goods shall be received, and in what manner they shall be arranged.

The Honourable Colonel KENNEDY—Under this Act the Chief Customs Officer would still exercise these powers.

The Honourable the ADVOCATE-GENERAL—But would it not be better to express this?

The Honourable Colonel KENNEDY—If the honourable gentleman will look at the 95th section, he will see that it is provided that the provisions of this Act shall not interfere with the rights of the Government to collect Customs duties at all or any of the Bunders mentioned in Schedule C, and I think that this arrangement would cover the case of bonded warehouses.

The Honourable Mr. TUCKER—I do not think so. With regard to what His Excellency has said, I fully assent to his views of the importance of the question he has raised, and the necessity that it should not be settled without very careful consideration. It appears to me, however, that we might now go on with the Bill, and by to-morrow we may find out exactly how matters stand, and be able to make subsequently such alterations in the schedule as we may deem necessary.

His Excellency the PRESIDENT—I have a word or two to say regarding what fell from the Honourable Colonel Kennedy, to the effect that the Bill and its provisions have been a very long time before the local Government and the Government of India, and that he is taken by surprise because objections have been raised now. Possibly the Bill has been before the local Government for a long time, but I am not to blame for that. The Bill was prepared before I came out to India, and others than me embodied in it its present provisions. So far as I am concerned, I may now say that I for one never heard such a proposal started as that the bonded warehouses and the control of bonded goods should pass from the Customs into the hands of the Port Trustees, and I can say that such a proposal never came before me in any shape. The matter did come to my notice somewhat accidentally. A gentleman called upon me the other day in regard to

some business, and in a conversation which we had the whole thing came before me clearly. This is the first opportunity I have had since of speaking on the subject, and I now take the opportunity of saying that I think the proposed transfer very unnecessary and very objectionable. So far as I am concerned, this is a plain explanation of this affair.

The Honourable Mr. NARAYAN—In Schedule G, the statement of capital account of the Port Trust referred to in Section 48, there are only two items of warehouses mentioned, and one of them, the Apollo Bonded Warehouse, was a private property, under the management of Messrs. Nicol and Company for several years.

The Honourable Colonel KENNEDY—I have already stated that one of the main objects of the framers of the Bill was to get the value of the buildings into the statement of the capital of the Trust.

His Excellency the PRESIDENT—That is to say, the honourable gentleman wishes to show the Government of India and the public that the Trust have certain capital. Then supposing he states that the income to be derived from the Apollo Bonded Warehouse when capitalized is worth Rs. 5,50,000, the thing is done, and in the dealing with the Government of India he has just to estimate the fees at so many years' purchase.

The Honourable Colonel KENNEDY—I am not prepared to go *de novo* into the whole circumstances again, and I think that as this measure has been before Government for the last three years, it might have been expected that very little needed to be explained now.

His Excellency the PRESIDENT—The honourable gentleman must remember that the long correspondence which he says has been going on for the last three years has been nothing but a prolonged controversy respecting the terms of payment, and that that controversy went on until at last the Government of India made those concessions which enabled this Bill to be prepared.

The Honourable Colonel KENNEDY—In that correspondence the question of the bonded warehouse was discussed, and it will be seen from it how the question arose with the Government of India.

The Honourable Mr. FORBES—Before this subject is disposed of, I should like to say one or two words upon it. I think there is one point which has been rather overlooked in this discussion, but to which the mercantile community perhaps attach more importance than they do to any other point which has been discussed—that is, the great benefit that was expected from the future Port Trust in the shape of increased facilities for the operations of trade and commerce. I think that one of the departments in which these facilities might be principally looked for would be in bringing goods into these bonded warehouses and arranging for their disposal and altogether placing them more for the convenience of the merchants to whom they belong. I think that if the bonded warehouses were not handed over to the Port Trust, the result would be that other bonded warehouses would be constructed in which, perhaps, greater facilities would be afforded than are given in the present Customs Bonded Warehouses.

His Excellency the PRESIDENT—Does the honourable member mean that if in consequence of our mismanagement of these warehouses the other warehouse owners would come up to the Collector of Customs and ask him to place their warehouses in a better position

than his own? If they were to do so, I cannot conceive that any Collector of Customs would do anything that would place his own warehouses in a position in which they could not compete with other warehouses. So far from this being the case I think it would be the business of the Collector of Customs to take precautions against any such contingency.

The Honourable Mr. FORBES—I think the arrangements that would prove most beneficial to the trade would be those made by the two departments conjointly—that is, by an amicable arrangement between the Custom House Department and the Port Trust.

Some conversation ensued, and then His Excellency the President intimated that prehaps it would be advisable for the Council to adopt the Honourable Mr. Tucker's suggestion and postpone consideration of this matter.

The Council then proceeded to consider Section 23, which was agreed to and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL considered that it would be better to call the "Deputy Conservator" the "Harbour Master" at once.

The Honourable Mr. TUCKER did not agree with the Honourable the Advocate-General because "Deputy Conservator" was a title which was to apply to an office yet to be created by the Trustees. The Deputy Conservator was not to be the existing officer but an officer appointed by the Trustees and to act under the Trustees.

The Honourable Colonel KENNEDY remarked that the wording of the Calcutta Act had been followed in this section.

His Excellency the PRESIDENT considered that a question arose as to whether the officers to be appointed by the Trustees should be entitled to pensions.

Officers appointed by the Trust not to be entitled to pension allowances.

The Honourable Mr. TUCKER believed that unless the Government of India specially admitted these officers to the privilege of receiving pensions, they would not be entitled to them.

His Excellency the PRESIDENT instanced the Municipal Commissioner who being a public servant, was entitled to receive a pension.

The Honourable Mr. TUCKER said that if the Municipal Commissioner were not a Government servant as well as the servant of the Municipality, he could have no claims whatever to a pension, because his pension depended not upon his Municipal servitude but upon his connection with Government.

The Honourable Mr. FORBES asked if the present salaries of the harbour officers were to be made the basis upon which to arrange the salaries of the officers to be appointed by the Trust.

The Honourable Colonel KENNEDY replied that this would be a matter entirely for the Trust to consider. It would be perfectly competent for the Trustees to modify these salaries, subject to the sanction of Government.

His Excellency the PRESIDENT—Is there no provision in this Bill for the treatment of officers who will, or may be put out of their occupations when the Trust assumes the management of the Port? Are these officers simply to be cast adrift without any recompense?

The Honourable Colonel KENNEDY—I think so, if the Trustees see fit to do so.

His Excellency the PRESIDENT—Without any compensation whatever?

The Honourable Colonel KENNEDY—I think so.

The Honourable Mr. TUCKER repeated that the whole question was one for the consideration of the Imperial Government. Certainly provision for certain officers had been made in the Municipal Bill, but then that provision was made because an existing institution was being taken over in a modified form. The case was different with the Port Trust, which would be an entirely new body.

The Honourable Colonel KENNEDY—A great many of the officers who will probably be taken into the service of the Port Trust are under agreements, and I suppose that the bargain will hold good with the Trust, which (when the period of agreement with these officers has expired) may dispense with the services of officers they do not require. As a matter of fact Government have already given notice to all the employés engaged on capital account.

The subject now dropped.

Should the Chairman be allowed to appoint officers and servants of the Trust not specified in Section 24?

The Honourable the ADVOCATE-GENERAL—With regard to the proposal that the Chairman of the Trustees should have the appointment of all the officers and servants who are not to be appointed by Government, is it desirable that he should possess those powers?

The Honourable Mr. TUCKER gave it as his opinion that such appointments were always better if left to one man.

The Honourable the ADVOCATE-GENERAL—Of course there are objections both ways. In the one case, there is the object of convenience to be gained, and in the other there is the fear that the Chairman might fill up the positions in his gift with his own creatures; but for my part, I would prefer to see this power which it is proposed to vest in the Chairman exercised by the Trustees.

The Honourable Mr. FORBES concurred with the Honourable the Advocate-General.

The Honourable Mr. NARAYAN thought that at all events the Trustees should have power to remove the nominees of the Chairman.

After some further discussion, the section was altered by the omission of the words "by the Trustees at a Meeting" from lines 26 and 27 and their insertion after word "duty" in line 28.

The section was then agreed to and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL remarked (regarding Section 27) that supposing a servant of the Trust had inherited a piece of land which the Trustees required, it would be rather severe to compel that servant to forfeit Rs. 1,000 and his situation merely because he was compelled to sell property which the Trustees desired to have.

The section, after a few remarks were passed upon it, was agreed to and stands part of the Bill.

In line 17 of Section 28 the words "as such" were transferred from the end of the line to between the word "servant" and the word "or."

Section 29, referring to the general nature of the works under the Act, was then considered.

The Honourable the ADVOCATE-GENERAL said he observed this section gave power to construct docks, and he wished to know how this would coincide with what fell from the honourable mover at the last meeting of the Council, for he thought the Honourable Colonel Kennedy proposed that these powers should be conferred by a separate Act.

The Honourable Colonel KENNEDY said this was a general power to apply any money the Trust might have, but that the raising of money by loan for such a purpose would be the subject of another Act.

His Excellency the PRESIDENT—The Trust cannot undertake any works which are to cost more than Rs. 25,000 without the sanction of Government.

Clause 3 was so altered as to read—"laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading, and unloading vessels."

The power of the Trustees over the entire foreshore objected to.

The Honourable Mr. TUCKER, referring to the 4th clause, asked if it was proposed to give the Trustees a right over the whole foreshore of the island.

The Honourable Colonel KENNEDY replied that it was intended that the Trustees should have this right, with the sanction of Government.

The Honourable the ADVOCATE-GENERAL remarked that the Bill already declared that any land which the Trustees thought it necessary to acquire could be obtained under the Lands Acquisition Act.

The Honourable Mr. TUCKER said that as a matter of fact the Municipality possessed portions of the foreshore, the outfalls of drains, for instance; and if the Trustees desired to reclaim or enclose the part of the foreshore where one of these drains might be, the Trustees would assuredly come into contact with the Municipality. There could be no doubt that by this time the Municipality had acquired certain easements, and under the new Municipal Act the property vested in the Municipality was secured to them.

The Honourable Colonel KENNEDY said it was very desirable that the Trustees should not be debarred from acquiring any part of the foreshore if they considered that doing so was necessary for the interests of the Port.

The Honourable the ADVOCATE-GENERAL—It can, I imagine, only mean the portion vested in the Trustees under this Act, or to be hereafter acquired by them.

The Honourable Mr. TUCKER—That should be the wording, I think.

The Honourable Colonel KENNEDY—This Bill is word for word the same as the Calcutta Act, and there is a Municipality there and private owners also. The object of this section was to give the Trust the right of making reclamations without obtaining formal grants in front of their own property.

The Honourable Mr. TUCKER—I do not think that is proper.

The Honourable the ADVOCATE-GENERAL—The Trustees will by this Bill have acquired more than half of the harbour foreshore, and the question is whether they should be

allowed to deal absolutely with the portions left in the hands of Government or other persons, without first acquiring the land in some legitimate manner.

The Honourable Colonel KENNEDY—I don't think this section gives them any such power. Certainly it was not intended they should have it.

The Honourable the ADVOCATE-GENERAL—This section, according to the wording, gives to the Trust the right to say, "This part of the foreshore is necessary for the execution of works under this Act, and we claim to enclose it."

The Honourable Colonel KENNEDY—Yes, but there is a process necessary to obtain it.

The Honourable Mr. NARAYAN thought it would be a pity if the Trustees were allowed to interfere with certain prescriptive rights which the Municipality may have acquired in the Harbour.

The Honourable Colonel KENNEDY—The Municipality have no rights in the harbour.

The Honourable Mr. NARAYAN—The Municipality would surely possess a prescriptive right in the case of a drain discharging from Sewree into the harbour.

The Honourable Colonel KENNEDY—But I hope that all such powers will be knocked on the head soon, and these matters left in the hands of Government.

The Honourable Mr. TUCKER—Still, the honourable gentleman must do these things in a legitimate way. I see no reason for investing the Trustees with such extensive powers.

The Honourable the ADVOCATE-GENERAL—If we adopt the clause as I now propose to amend it, I think that difficulties with persons who have already acquired rights on the foreshore will be avoided, while at the same time the Trustees will be left with quite enough to do with their funds. I would propose that the clause be amended as follows :—'Reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port of Bombay which may be vested in the Trustees by this Act, or which hereafter may be acquired by them, and which reclamation, excavation, enclosure or raising may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act."

The Honourable Colonel KENNEDY said he had no objection to the alterations.

The clause as amended was then agreed to.

Clause 5 was amended by adding at the end of it the words "as aforesaid."

The Honourable Mr. TUCKER thought some limitation to the operations of the Trustees ought to be expressed in the next clause.

The Honourable the ADVOCATE-GENERAL concurred with the Honourable Mr. Tucker and inquired whether, among "such works, without the limits of the Port, as shall be necessary for the protection of works executed under this Act," the construction of gun-boats by the Trustees was included.

The Honourable Mr. TUCKER said it might also be asked, whether the Trustees were to be allowed to build fortifications outside of the limits of the Port.

The Honourable Mr. NARAYAN thought that all that was contemplated by the framers of the Bill was that the Trustees should have power to place pilot schooners outside of the harbour.

The Honourable Mr. TUCKER considered that it should be expressly stated that the Trustees were not to exercise the powers mentioned in this clause without first obtaining the sanction of Government. He for one would object to the Trustees being allowed to wander outside the limits of the port and construct such works as they choose. They might take a fancy to construct considerable works on Hog Island or Elephanta which neither Government nor the general community approved of.

The Honourable Colonel KENNEDY said this clause only gave the Trust a general power to construct any work which they thought necessary, with the sanction of Government previously obtained.

The Honourable Mr. TUCKER pointed out that there was no special provision for the permission of Government being necessary for any work outside the harbour.

The Honourable Colonel KENNEDY—The Trustees can do nothing which will cost more than Rs. 25,000 without first getting the permission of Government.

The Honourable Mr. TUCKER thought that for works outside the harbour even this should not be allowed, and that in such a case the express sanction of Government should be made necessary in every instance.

The Honourable Colonel KENNEDY said he had no objection to that being provided.

The Honourable Mr. TUCKER asked if the Act contained any provision for the providing of pilot boats and maintenance of pilots.

The Honourable Colonel KENNEDY—As the Conservators of the Port the Trustees would have the power to provide pilot boats.

The Honourable the ADVOCATE-GENERAL—Where are the Trustees expressly appointed "Conservators of the Port?"

The Honourable Colonel KENNEDY said that was further on, and Section 78 having been pointed out to the Honourable the Advocate-General, he said that it is true this section gives the Trust the power to appoint pilots, but if the Trustees are to have power to build pilot boats and construct beacons and lighthouses they had better have it distinctly granted and not merely by implication.

The Honourable the ADVOCATE-GENERAL afterwards added—Suppose there were a storm and the lighthouse were swept away—

The Honourable Colonel KENNEDY—The Port Trust would not require to rebuild it. It would be an imperial work.

The Honourable the ADVOCATE-GENERAL—Supposing that beacons were required to be erected in the harbour?

The Honourable Colonel KENNEDY—Then that would be for the Trust to do, but sea lighthouses are imperial works.

The Honourable the ADVOCATE-GENERAL said it seemed to him as if the Trust had the power to make rules, but had not the power to make the things the rules were required

to regulate. He thought it would be advisable to introduce a section for the provision of beacons or pilot vessels.

The Honourable Colonel KENNEDY—All the duties conferred on the Conservator of the Port are conferred on the Trust. He had no objection to such a clause being added if it were thought necessary.

The Honourable the ADVOCATE-GENERAL—Perhaps it will be convenient to let it stand over and if necessary bring up an amendment on the third reading.

This course was agreed to; and then on the motion of the Honourable Mr. Tucker the words " with the sanction of the local Government previously obtained," were inserted in the first line after the words " The construction."

This clause and the entire section were then agreed to as amended, and stand part of the Bill.

In line 9 of Section 30, " for India" was inserted between " State " and " in."

The local Government's true interest in the Port Trust property.

His Excellency the PRESIDENT remarked that the position of the local Government with respect to the property to be vested in the Trustees was not very clearly defined. This section seemed to imply that the Government were simply parting with their property for a term of years and that that property would revert to them when that period expired.

The Honourable the ADVOCATE-GENERAL said that the Trustees must be, *virtute officii* able to sell the property. The position seemed to him to be this. The local Government assigned to the Port Trust all the property mentioned in Schedule G, attached to the Bill, on the understanding that the whole of the money should be paid sooner or later. Government maintained control over the Trust because they were the chief creditors of the Trust, but it would be a hard case if Government maintained the same full control after the Trust had repaid all the money due upon the estate.

The Honourable Colonel KENNEDY—I understood the Honourable the Advocate-General the other day to give a distinct opinion that the property would remain the freehold property of Government, and that, as the property was merely given over to the Trustees for management, it would be exempted from the payment of Municipal taxes under the new Act.

The Advocate-General sees no reason why Government property should not be taxed.

The Honourable the ADVOCATE-GENERAL replied that he certainly did not express that opinion, because it was not his opinion. What he said was that the reversion would remain with the Government. He had given his reasons for thinking that this property could be taxed for Municipal purposes, and one of them was that he saw no reason why Government property should not be taxed. In the voting which took place, he did not vote that the Port Trust should be exempted.

The Honourable Mr. NARAYAN differed from the Honourable Colonel Kennedy's notion that this property could be vested in Trustees, and yet be freed from Municipal taxation.

The Honourable Colonel KENNEDY—The ground of my view that the Trust should be thus exempted was because there was no means of compelling the Municipality to give a *quid pro quo*.

After some further discussion, the subject dropped.

Sections 30 and 31 were then agreed to and stand part of the Bill.

Right disputed of Government to take land from the Trustees if Government simply declared such land to be required for a public purpose.

The Honourable Mr. BYTHELL (regarding Section 32) objected to the Trustees being bound to provide from the land in their possession, on the terms mentioned in that section, any land which Government might declare to be required for a public purpose. Property which had become valuable to the Trust might be required, or at all events considered useful, for imperial purposes, and by this section Government could seize the property from the Tustees whether they wished to part with it or not, and that, too, in many instances without paying any thing for it. If Government happened to require at any time one of the properties which have been made over to the Trust as a free gift in mitigation of the burdens of the port and if the property so required were bringing in any revenue, the Trust on losing it would have to increase the taxation on trade in order to obtain the revenue which by this Act it will be bound to provide. Therefore these so-called gifts made in return for the Warree Bunder (which has now been virtually built for Imperial use by this port) may any time be cancelled. When the Port Trust correspondence was disclosed it became a question with the mercantile community whether the Government of India should not be memorialized to make still further concessions, because the trade is even now paying bunder fees at landing places which before the Elphinstone property was purchased were free to the trade. It was decided however to accept the burden because of the liberality displayed by the Government of India in making over to the Trust several properties, but if these gifts may at any time be revoked and nothing given in return the position is dangerous to the trade of the port.

The Honourable Colonel KENNEDY—The land will only be resumed if it is required, for any public purpose, and I think it is only right that the local Government should have this power over such a property, as long, at all events, as the capital debt remains undischarged.

His Excellency the PRESIDENT—Here again the honourable member reverts to the interest of Government in the Port Trust. I deny that there is any interest in this Port Trust but the public interest.

The Honourable Colonel KENNEDY—Really there will be no interest created by the Bill but the public interest.

The Honourable the ADVOCATE-GENERAL—The public has this interest in the Trust that if the capital debt were discharged, Bombay would become practically a free port.

His Excellency the PRESIDENT—That, however, is an imperial question.

The Honourable Mr. TUCKER—It cannot be denied that we are by this Bill creating a corporation,—an actual entity. At present the public interests and those of this entity may be identical, but there can be no doubt that in the course of time they will deviate, and the interests of the Corporation become quite distinct, if not actually conflicting with the interests of the public.

His Excellency the PRESIDENT—Then we might immediately suspend the Port Trust.

The Honourable Mr. TUCKER—That might be a course of some difficulty. What I have indicated has proved to be the history of most Corporations, and there is no reason to believe that the Port Trust will prove any exception. Fifty years hence all this property may be built upon, but suddenly a public park is wanted. Property in other parts of Bombay may be dear, but the public discover that they can get this land of the Port Trust at a cheaper rate—by purchasing it at its cost price. If this section stands, there is nothing to prevent the public from taking the ground, and I would ask if it is wise or sound policy to create the possibility of such a state of things?

The Honourable Mr. BYTHELL—There is this important fact to be considered, that interest must be paid on the capital debt of about two millions sterling. The debt has been reduced to that amount because it was found that the port could not pay interest upon a larger sum without inflicting serious injury on its trade—but, then, £700,000 of the total debt was spent in making a railway station at Warree Bunder, which certainly should be regarded as an imperial concern. It therefore becomes a serious consideration whether, by retaining this section, the Council should give Government the opportunity of increasing the burdens of the port, when it is already compelled to pay interest on a sum a considerable portion of which was contracted by the making of this Warree Bunder station—a work not for the good of that mercantile section alone, but for the good of the whole country.

His Excellency the PRESIDENT—Still I cannot see any interest in this Port Trust beyond the interest of the public.

The Honourable Mr. BYTHELL—Sir,—The question is a most important one as regards Bombay. An enormous debt has been contracted and the point that has taken years of correspondence to settle is—shall the whole of this debt be paid for by Bombay alone or shall a portion be an Imperial debt chargeable to the revenue of the whole country. It has been argued by the Government of Bombay and admitted by the Government of India, that it would not be fair to make this small section of the Indian community bear the whole burden. It has been admitted also by Government that no new burdens can fairly be imposed on the trade unless some new accommodation be provided in return. Now, by Section 32 new burdens can easily be imposed at any time, for the Trustees have no alternative—they must pay interest on the debt as it stands at present. This is not a pleasant contingency to look forward to, for Bombay is already placed at a considerable disadvantage in competing with Calcutta in consequence of the present Bunder imposts and excessive railway charges. I would prefer that this section be omitted and the following, as suggested by the Chamber of Commerce, adopted in its stead:—

"XXXII. The Trustees shall be bound to provide from the land in their possession any land which the Government shall declare to be required for a public purpose, and the Government may order proceedings to be taken for obtaining possession of the same for Government and for determining the compensation to be paid to the Trustees according to any law in force for the acquisition of land for public purposes."

The Honourable Colonel KENNEDY—I certainly cannot support that amendment. As to the cost of the railway station, the 70 lakhs was the cost of the land and of the wharf walls and basins. The Trust has wharfage rights over the latter.

The Honourable Mr. FORBES—I think that the adoption of the section approved of by the Chamber of Commerce would cover everything that could be gained by leaving out

the last five lines of the section as it stands in the Bill. I beg to propose that the Chamber of Commerce's section be substituted for the section standing in the Bill. I propose this quite agreeing with His Excellency's remarks that whatever line of policy may be hereafter adopted with regard to this land, it will be solely the public interest that will require to be attended to; but, at the same time, I think it will simplify any future action which may require to be taken, if we now decide that the value to be paid for the land shall be ascertained according to the law which may be specially passed with the object of settling questions of this sort. It will be quite impossible for the Trustees to know the value of the concessions which have been made to them by the present Government, if at any future time they are to be liable to have a portion of their land taken back from them at the present market value of the land. In a few years this property may have altered entirely in value by the construction of new buildings upon it, and from other circumstances, and I consider that it is quite impossible for us at present to put a fixed value upon any concessions which may have been given to the Port Trust. I think that the attitude assumed towards the Port Trust by the Government of India is so liberal that it shows an evident desire to place the Trust upon a favourable footing, and we need not be afraid that any objection will be raised in that quarter to the proposal of the Chamber of Commerce.

The Honourable Mr. TUCKER—Before we go any further in this matter there are two questions to be considered. Are we able to depart from the stipulations required by the Government of India which we have sought to embody in this section? If we are not there is no use of discussing the subject further. The next question is, what is the fair and just mode of dealing with the Trustees in such a case as this? I think we must consider that we are not conferring upon this body which is about to be constituted an unencumbered estate: we are giving that body a property on certain terms, and with certain obligations to fulfil, and therefore I cannot see why we should impose upon the Trustees any different stipulations from what we should require if we were transferring the property to any other person or company. Now, in some leases which are falling in just now, and which were issued by Government ninety-nine years ago, I find a provision in them that Government, if they desired to resume the lands, were to be able to do so upon paying the market value of the lands or buildings at the time being. This would appear an equitable mode of treatment.

The Honourable the ADVOCATE-GENERAL—I believe that where there is a general law applicable to any subject it is best to adhere to it, and that in this matter there is no reason for excepting the Port Trust from the benefit or burden of the general law. Here we have the Port Trust taking over a very large property from Government in order to relieve the public to a certain extent from the cost which the public incurred in acquiring that property, and the Port Trust is to pay 4 per cent. for ten years upon the book value of that property and 4½ per cent. afterwards—that is to say, the public particular is annually to pay a large sum of money as interest to the public general. Then why should not that portion of the public which takes upon itself the burden of paying to the general public this interest, as well as the capital value, have the full benefit of the property which it takes over? If this is to be looked upon as an imperial concern, why are we dealing with it simply as a matter affecting the Port of Bombay? If, as regards the payment of this debt, we are merely substituting a portion of the public for the general public,

why should not the public of Bombay who are affected, the mercantile public particularly, have the advantages which, upon general principles, they seem to be entitled to have? On the other hand, if the property which is being conveyed to the Trustees is less in value than what they paid for it, why should they insist upon taking from the general public a higher value for the land than what the law gives them? I can see no reason why a particular portion of the public should not get the profit of a transaction in which it is engaged for the relief of the public at large? Nor can I see any reason why it should not bear any loss which fairly results from that transaction. I think it would be unwise to depart from the general provisions of the law, and therefore I should prefer this thirty-second section left out, and if land is required that it should be taken up in the usual way, under the Land Acquisition Act. But then we are met by this important consideration, will the omission of this section be fatal to the whole Bill? I should be loath to divide the Council upon a matter that could not possibly be reconsidered by the Government of India, and I would prefer accepting the section as it stands rather than imperil the Bill. On referring to the letter of the Government of India, dated the 15th June 1869, I find that the twelfth and thirteenth paragraphs embody what is contained in his thirty-second section, and if it is considered that this section is an essential part of the Bill, I would not desire to see the measure sacrificed upon that point, although, as I have said, I would prefer to see the section omitted.

The Honourable Colonel KENNEDY—In one of the late letters from the Government of India, they intimate, after making concessions first upon one point and then upon another, that in all cases in which distinct concessions have not been made, it must be understood that the original understanding is adhered to. This intimation would certainly apply to this section, and I have no doubt that in the estimation of the Government of India it is essential that it should be retained in the Bill until the capital debt is paid.

His Excellency the PRESIDENT—We have heard a great deal about the responsibilities which these Trustees are to undertake, but it seems to have been entirely forgotten, when considering the terms upon which Government are to get back the land, that Government have given the Trustees a free gift of £400,000, upon which no interest whatever is to be paid. It is therefore reasonable to consider that in making the stipulations upon which land was to be retaken for public purposes, Government considered that they were entitled to some privileges in return for this large gift.

The Honourable Mr. BYTHELL—But the station at Warree Bunder had cost the Trust £700,000, and this had a considerable deal to do in prompting this gift of £400,000. In fact the whole argument, as adduced by the Government of Bombay in the correspondence with the Government of India, was that a reduction in the debt of the port ought in justice to be made because a large sum which it was proposed to saddle Bombay with had been expended solely for imperial and not local purposes. Certainly, the Trust will pay no interest on the cost of the property, valued at £ 400,000, transferred to the Trust as a gift; but the Trust will continue to pay interest on the cost of the Elphinstone property, and in the latter item is included the sum, £ 700,000, expended in the construction of the Warree Bunder, which will not belong to the Trust but to the Imperial Government.

The Honourable Mr. TUCKER—I feel exactly on this point as the Honourable the Advocate-General has expressed himself. If this section cannot be left out without

imperilling the whole Bill, I would not vote against the retention of the section; but at the same time I would prefer it to be struck out, because it is contrary to my notions of what is right in such matters. This, apart from the consideration of granting to any public or private body a valuable estate of this character. Perhaps the section might be left over until we come to the third reading.

The Honourable the ADVOCATE-GENERAL—It does not seem to me to be just to saddle the Trust with the cost of constructing the Warree Bunder, and that seems to be recognized by the Government of India when they sanctioned £400,000 to be credited to the Trust as capital not to be repaid to Government. Clearly, the Government of India could not have meant, when dealing with a body like this Trust, to make the Trustees pay for what they really did not get.

The Honourable Mr. TUCKER—I do not think the fact can be got over that the Imperial Government got this station for nothing, and it must have been paid for either by the local Government or somebody else.

His Excellency the PRESIDENT—The Government of India were the possessors of the oreshore of Bombay, and that gave them a perfect right to say to certain persons: "If you wish to take the right of reclaiming a certain quantity of land from that foreshore, you may do so upon the condition that you build us a railway station." That is really what was done.

The Honourable Mr. TUCKER—The interest of the Government of Bombay, and of the Government of India, in the foreshore of Bombay were identical. I do not think that the Government of India will insist upon this clause being a *sine quâ non* of the measure.

The Honourable Colonel KENNEDY—If the Council adopts the amendment, it will lead to a revival of correspondence upon a subject which has been already settled. I would agree to the amendment if the capital debt were discharged, but until that is done, I think this section ought to be retained.

The Council divided on the Honourable Mr. Forbes' amendment:—

Ayes—8.	*Noes*—2.
The Honourable H. P. St. G. TUCKER.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable A. ROGERS.	The Honourable Colonel M. K. KENNEDY.
The Honourable the ADVOCATE-GENERAL.	
The Honourable MUNGULDASS NUTHOOBHOY.	
The Honourable SIR JAMSETJEE JEJEEBHOY.	
The Honourable J. A. FORBES.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	

The amendment was therefore carried.

The new section was agreed to and stands part of the Bill.

In line 1 of Section 36 "and in the manner provided by" was inserted after "of"; and to the end of the section the following words were added on the motion of the Honourable the Advocate-General:—"Provided that no compensation or compromise involving payment or receipt by the Trustees of a sum greater than Rs. 10,000 shall be valid without the assent in writing of the Local Government."

The section was then agreed to and stands part of the Bill.

In section 37 the word "salaried" was omitted.

Section 39 was amended as follows:—In lines 7 and 8 the following words were deleted—"estimated cost of any works or arrangements," and the words, "acquisition of any immoveable property or of any works, plant, vessels, or appliances, the purchase of which may be" substituted. In line 9, the words "in such manner" were inserted between "and" and "as."

Considerable discussion took place upon the meaning of the word "arrangements," which the Honourable Colonel Kennedy interpreted to mean, among other things, all plant required by the Trustees, and the result was that the section was amended in the mannern indicated.

In section 40, the words:—"Such money shall be raised in such a way as" were omitted from lines 40 and 41; and the words "the manner in which such money shall be raised" inserted after "appoint" in line 9. The section was then agreed to as amended and stands part of the Bill.

The last line of Section 41 was altered to read, "Section 49 of this Act."

In line 5 of Section 42 "or" was substituted for "and," and the words "or arrangements" in the next line were struck out and "plant, vessels, or appliances," substituted for them.

His Excellency the President then adjourned the Council.

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay, 15*th January* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Thursday, the 16th January 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The Bombay Port Trust Bill considered in detail.

The Council proceeded with the consideration of the Bombay Port Trust Bill in detail.

The Honourable the ADVOCATE-GENERAL moved that after the word "sums" in line 6 of Section 45, the following words should be inserted: "which shall be raised under the provisions of Section 39 of this Act or"; that the words "for India" should be inserted between "State" and "in" in line 8; and that in line 9 "sections" should be "section" and that "and 39" should be omitted.

These amendments were agreed to, and the section as amended stands part of the Bill.

The Honourable the ADVOCATE-GENERAL considered that as by Section 40, the Government were to direct and appoint the manner in which the money was to be raised, it would not be wise to limit the Trustees to payment of interest merely on debentures that might be issued by them, and moved that the words "debentures that may have been issued by the Trustees," in lines 11, 12, and 13 of Section 46, be omitted, and the following words substituted: "money that may have been raised by the Trustees under the provisions of Section 39 of this Act."

This amendment was agreed to, and the section as amended stands part of the Bill.

The Honourable the ADVOCATE-GENERAL moved that in line 10 of Section 47, "Section 49" should be substituted for "Section 39," and that in lines 11 and 12, the words "in paying off any of the debentures issued under this Act," should be omitted and the following words substituted: "shall be applied to paying off any of the money that may have been raised by the Trustees under the provisions of Section 39 of this Act."

The Honourable Mr. FORBES asked if surplus revenues were to be applicable to new works.

The Honourable Colonel KENNEDY said that they would not.

The amendments were agreed to, and the section as amended stands part of the Bill.

In line 4 of Section 48, "for India" was inserted between "State" and "in."

In the 7th line of Section 49, "G" was substituted for "A."

The words "which shall be to come from the commencement of this Act up to" in lines 8, 9 and 10 of Section 50 were omitted and the following words substituted: "between the date on which this Act shall come into operation and."

His Excellency the PRESIDENT said that in Section 51 the Trustees were empowered to "pass, reject, modify, or alter" the estimate of expenditure, and to pass such estimate so modified or altered; but no provision seemed to be made for the line of action to be taken if the Trustees resolved to reject the estimate. It was quite possible that the Trustees might quarrel with their chairman and throw out his budget.

The Honourable Colonel KENNEDY—Then the chairman would be immediately removed by the Government for contumaciousness—at least, I hope so.

His Excellency the PRESIDENT—I do not think so. The Government and the chairman might be agreed on the matter of dispute. It does not follow that the Government are to be in opposition to the chairman. The question remains—What is to be done if the Trustees get rid of the estimate?

The Honourable Colonel KENNEDY—We might say that "the chairman shall forthwith prepare another estimate."

His Excellency the PRESIDENT—I think we might leave out the words "or to reject" in lines 4 and 5.

The Council agreed to His Excellency's amendment.

The Honourable Mr. TUCKER wished to know what was the object of the words "if necessary" in line 12 of Section 52. They left an ambiguity as to what was to be done by the Trustees in the event of Government returning their estimate.

His Excellency the PRESIDENT concurred with the Honourable Mr. Tucker, and said that it was necessary that there should be a final power, and, therefore, if the Government returned the estimate to the Trustees with certain remarks, the option to make, or decline to make, alterations implied in these words "if necessary" should not be left to the Trustees.

The Honourable Colonel KENNEDY said the section was only slightly different from the Calcutta Act, and he would have no objection to any alteration which would give the section more of the nature of a "bludgeon clause."

The Honourable the ADVOCATE-GENERAL—Supposing the Trustees were right, and the Government wrong, upon the point raised in the "remarks": what is intended to be done?

The Honourable Colonel KENNEDY—The Government is to rule.

His Excellency the PRESIDENT—If the Trustees are not empowered to spend more than Rs. 25,000 without the sanction of Government, and cannot appoint more officers than Government approve of, I do not see the necessity for having any bludgeon clause.

The Honourable Colonel KENNEDY—We are here following the usual practice: all budgets are submitted to a sanctioning power.

His Excellency the PRESIDENT—If we do that here, and make the reference of the budget to the Government final, there will be some reason in the section; but if it is to be left in the way it appears here, it is neither one thing nor another, and unless it is altered it is useless.

After some discussion the words "if necessary" were struck out, and in the 16th line "greater" was struck out, and "otherwise" inserted between "estimate" and "than."

The power of the Trustees to spend sums in emergent cases.

His Excellency the PRESIDENT—By Section 54, we give the Trustees power to break in upon the budget, since they are to be allowed to spend certain amounts in cases of pressing emergency. Is this intended?

The Honourable Colonel KENNEDY—This power to the Trustees to make supplemental estimates, and to expend money in pursuance of these estimates, is simply to meet emergent cases, such as a wharf tumbling down. This section is slightly amended from the Calcutta Act, which fixes the sum not at Rs. 5,000 but at Rs. 2,000. I venture to suggest that it would be very absurd if the Trustees did not possess some such power.

His Excellency the PRESIDENT—What is the value of the Trust if its officers cannot act in an emergency, such as the honourable member has instanced? Surely these officers would be justified in taking the steps necessary to meet the emergency.

The Honourable Colonel KENNEDY—They would be breaking the law, and it would be well not to put men into that position. The chairman might be a timid man, and afraid to act unless he were strictly within the law, and, I think, there can be no harm done in retaining this section.

Section 54 was then agreed to, and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL—In Section 55, I see it is laid down that ten days' notice of the time and place at which the audit and examination of accounts is to take place, must be given. Might I ask, what is the object of giving this ten days' notice?

The Honourable Colonel KENNEDY—It might be to give the public an opportunity for making suggestions. I cannot say exactly, however, what it is for. It is in the Calcutta Act.

The Honourable Mr. ROGERS—I see that the section says that a copy of the accounts to be audited and examined is to be deposited in the Office of the Trustees, where it is to be open for inspection by any person on payment of a rupee, and, possibly, this ten days' notice is meant to give the public an opportunity, as Colonel Kennedy says, to make suggestions.

The Honourable Mr. TUCKER—It is a novel proceeding in Bombay, that the public should be summoned preliminary to an audit. I cannot see how the work is ever to be carried on, if the public, for the payment of their rupee, are to be permitted to examine the accounts, and then give the auditors advice as to their duties.

The Honourable the ADVOCATE-GENERAL—I think it would be much better to publish an abstract of the accounts, together with the auditors' report, in the same way as they do in Calcutta.

His Excellency the PRESIDENT—I think it would be much better to leave out the provision from the end of the 31st line down to, and including, the word " payment " in line 49.

The Honourable Colonel KENNEDY—But that would debar the public from having access to all the doings of the auditors. There may be many questions in reference to contracts or payments which the public would be interested in.

The amendment suggested by His Excellency the President was agreed to.

The Honourable the ADVOCATE-GENERAL—In line 56, I would like some provision to be made for the publication of the accounts of the Trust, as well as the auditors' report. This, as I have said, is the custom in Calcutta. I have here the Administration Report of the Calcutta Commissioners for 1871-72, and there are no less than 38 pages of auditors' report and abstract of accounts in it.

The Honourable Colonel KENNEDY—There is nothing in the Calcutta Act providing for that being done.

The Honourable the ADVOCATE-GENERAL—But I am not speaking of the Calcutta Act, I am speaking of the Calcutta practice, which appears to be very good.

The Honourable Colonel KENNEDY—Then the same might be done in Bombay.

The Honourable the ADVOCATE-GENERAL—Still, there can be no objection to inserting a provision of this description in this section.

The Honourable Colonel KENNEDY—I have no objections.

The Honourable the ADVOCATE-GENERAL proposed that, from and after line 55, the section should read as follows—" be published, together with an abstract of the said accounts, in the *Bombay Government Gazette*."

The amendment was agreed to, and the section as amended by His Excellency the President and the Honourable the Advocate-General was agreed to, and stands part of the Bill.

His Excellency the PRESIDENT—Section 56 brings us back to the discussion which was commenced yesterday and to the subject which I brought to the notice of the Council. The end of the section reads—" until such scale of tolls, dues, rents, rates, and charges, as aforesaid, shall be framed and approved and published, the fees leviable under Bombay Act V. of 1870, and under the Consolidated Customs Act (Act VI. of 1863), so far as the same relates to the levy of fees on goods stored in the Customs bonded warehouse, shall continue to be levied on behalf of the Trustees." I should like to set matters right with the Council as to a part of that discussion; because I think that it may be held that I was setting up my own judgment in regard to the position of this Trust, and as to its power in various matters, rathe in opposition to the views of the Government of India, as expressed in the correspondence which has passed. That being so, I have taken the trouble to look at the earlier portions of the correspondence, to see how far what I have said was open to that objection, and I find that on 1st February 1869, Sir Seymour FitzGerald, then, possibly, seeing his way

Renewal of the discussion of the question respecting the relative powers of the Trustees and the Customs Officers.

to the purchase of the Elphinstone property, and, probably, fully alive to all the difficulties and anxiety and trouble which would be involved in writing to the Government of India, said—"As regards the administration of the estate, if it be acquired by Government, His Excellency in Council would propose that it should be conducted by a Board of members to be selected by Government, and to be composed of prominent public servants and influential members of the mercantile community." The Council will observe that the word Board is there used. That went to the Government of India, and they assented to the purchase of the property in this manner—"The constitution of the Board of management or commissioners is left entirely for the consideration of the Bombay Government, subject to the general conditions expressed in the memorandum. An essential matter is that Government shall have complete financial control over their operations, and they are not to be liable to be brought into collision, by reason of their being invested by powers which shall go beyond what is requisite, to enable them satisfactorily to discharge all the needful executive duties of the managing body. They will, in fact, be an administrative Trust, strictly subordinate to the Government in all essentials; but will receive ample powers for the proper performance of the business entrusted to them." That letter was accompanied with the proposed terms for the purchase by Government of the estate, and the fifth of these terms says—"The whole of the foreshore of the Bombay Harbour, within the limit thought desirable by the Bombay Government, and so far as it is the property of the Government, and all the wharves, &c., the property of the Government within the same limits, excluding any portions specially required for public administrative purposes, may be made over to the Board for administration." And the last condition but one reads—"The Board will hold the property made over to it for administration as trustees by the Government; and the powers given to the Board under the Act which constitutes it, shall be so limited as to prevent the Board from taking up a position of hostility or of opposition to the Government; or from attempting to exercise any rights or make any claims in opposition to the orders or decisions of Government." And further on, as the correspondence advances, I find in one of the letters that the terms applied by Government to the proposed body was Board, or Trust, or Commissioners. Therefore, I consider my views as to this corporate body and its proprietary rights, to be in no manner at variance with the original view of the Government of India. But, by some means or other, these proprietary rights grew up, and, so, we have to encounter these objectionable parts of the Bill. The next question was with regard to the bonded warehouse, and as to how far the Government of India had been consulted or could be aware of the proposal respecting the transfer of that warehouse, and all the things connected with it, from the Government to the new Trust, and I have already pointed out that the Government of India proposed to transfer "the whole foreshore of the Bombay Harbour, so far as it was the property of Government, including all wharves, &c." Colonel Trevor, writing afterwards on the 21st June, says—"It is proposed to vest in it all the properties of the Government bordering on that foreshore," and, then, gives a list in which the Apollo Bunder Warehouse is put down among other items and valued at Rs. 5,50,000. Nowhere can I find any other reference to this bonded warehouse, till we come to the 26th para., where there is this—"Besides these two great sources of revenue, there is the income of the property to be taken from Government, referred to in the 6th paragraph of this letter, and the receipts for the goods stored in the Apollo Bonded Warehouse, estimated at about Rs. 30,000 per annum." So far as I can make out, though I am quite open to correction,

I can find nothing in the correspondence to show that the Government of India were informed of the change proposed to be made in this department, or that they were in any way prepared to depart from the reservation of excluding portions specially reserved for public administrative purposes. I, therefore, assume that this is the property which they required for public administrative purposes, and, I think, it should so remain.

The Honourable Colonel KENNEDY—Do I understand His Excellency's proposal to be to reserve to the Customs authorities all the powers which they now possess over the bonded warehouse ?

His Excellency the PRESIDENT—Yes, and also as to its management.

The Honourable Colonel KENNEDY—I have not the slightest objection. They may have that power still under the Consolidated Customs Act.

His Excellency the PRESIDENT—No, the fees and dues and rents are to be managed by the Trust, according to this section.

The Honourable Colonel KENNEDY—Yes, just as would be the case with any other private bonded warehouse, which they might license.

The Honourable Mr. BYTHELL said he had not been present on the previous day when His Excellency had made his remarks on this subject; so that, perhaps, he might be allowed to ask what were His Excellency's reasons for objecting to the change.

His Excellency the PRESIDENT—My objection was to giving a body constituted like this any control, direct or indirect, over a great property like the bonded warehouse, which is one of the chief means of collecting the Customs revenue. I object to the regulating of anything connected with this establishment passing out of the hands of the Government.

After a few remarks by other members, His Excellency added—I am altogether against entangling the Customs in any way with such a body.

The Honourable Mr. BYTHELL—I understand that His Excellency is averse to allowing the Port Trust to interfere with any portion of the property required for Government administrative purposes; but, with regard to that, I would say, though I am open to correction, that the same objection would apply to any Commissioner of Customs, under the Consolidated Customs' Act, licensing any private warehouse as a bonded warehouse. Section 73 of that Act gives the Commissioner of Customs the power to which I have alluded, and it appears to me that the Commissioner of Customs might license the bonded warehouses of the Trustees just as he would do those of others. I remember that some years ago a very large building in Colaba was specially erected with the idea of furnishing bonded warehouses, and I believe that at that time the Commissioner of Customs expressed his willingness, in accordance with the terms of the Act, to allow that building to be used for that purpose. I understand it is contemplated that the Port Trust should at some future time, either by erecting piers or building docks, undertake the discharge of any ship's cargo and, therefore, it would be almost imperative for the Port Trustees to erect bonded warehouses, in order to give the necessary accommodation, improve their property, and increase their revenue. Even were this Council to say that His Excellency's objection should hold in the case of the Apollo Bonded Warehouse, I think it would apply equally to any warehouses which the Port Trust might erect in future.

His Excellency the PRESIDENT—But can the honourable member give me any reason for the transfer of this public property to the management of the Trustees?

The Honourable Mr. BYTHELL—I was about to do so, Your Excellency. I believe that if the Port Trust had the management of these warehouses, and the delivery and receipt of goods, subject, of course, to the Customs' officers, there need be no fear that Her Majesty's revenues would be defrauded, but, on the contrary, the revenue would be greatly increased, since, I believe, the Trustees could make better use of these warehouses than the Customs authorities do. At the present time, so far as I am concerned, and many other merchants in Bombay can say the same thing, I would not leave my goods in the bonded warehouses, simply because the restrictions regarding delivery are so stringent that they positively make goods unsaleable. I can state as a fact that dealers, if they can buy goods stored in a private warehouse at the same price as goods stored in the Customs' bonded warehouse, prefer to purchase the former; and almost every European merchant who imports Manchester goods, although there is an import duty of 5 per cent on these, prefers to pay the duty and store goods in his own godowns. I think if the Apollo Bonded Warehouse were made a private property and licensed as any other private warehouse, there would be no danger whatever to the Government revenues. The Customs Department would still manage to exercise the greatest supervision, as regards the collection of revenue, while the Port Trust might grant increased facilities to the merchants of Bombay.

The Honourable Colonel KENNEDY—I may also remark that if the Apollo Bonded Warehouse is made a private property, it will simply be reverting to what it was originally, when it was held as a bonded warehouse, under the management of a private company.

His Excellency the PRESIDENT—It is reasonable to suppose that Government had some very good reasons for making the purchase.

His Excellency the PRESIDENT—We have now elicited from the Honourable Mr. Bythell that one of the great objects to be gained by the transfer of these premises to the Trust will be, what he terms, "a relaxation of the stringency of the present rules." Of course, we can all understand what that means. Since I have come here, I do not recollect having heard any representations as to the unfair stringency of the rules, or as to the way in which the Government warehouses are conducted. If there had been complaints, Government would have inquired into them; because it is the duty of the Customs Department to grant every facility to merchants and traders consistent with the due protection of the revenues. I am not the more disposed to agree to the change, because there is a desire for a relaxation of the rules, or for giving greater facilities as it has been termed; it only confirms me in my view of its inexpediency. With these remarks, I leave the matter in the hands of the Council.

The Honourable Mr. BYTHELL said he inadvertently used a wrong term when he said the rules to be relaxed. Merchants did not wish the rules for securing the safety of Her Majesty's revenue to be relaxed; all they wanted was that men who went to the warehouse to take delivery of goods should not have to dance attendance on the Customs officials for an hour or two before they could get delivery. There was no doubt that under the administration of Mr. Reid many of these drawbacks had been remedied, but for many years previously, if any person wanted any business done at the Customs House

which it would take any reasonable man a few minutes to do, he had often to wait several hours. That was his own experience, and he thought that with that experience they should raise their voices against the bonded warehouses remaining in the hands of the Customs officials. It could not add to the safety of the revenue in any way to treat the mercantile community in that kind of way. They did not want the rules relaxed, but they wanted more promptitude.

His Excellency the PRESIDENT—If the honourable gentleman makes a representation on that subject the Government will be bound to take notice of it.

The Honourable Mr. TUCKER—Since I spoke on the subject yesterday I have carefully looked over the Consolidated Customs Act, and I have no doubt that if this Bill is passed in the shape in which it is now before us, the Commissioner of Customs will still have complete control over every warehouse which may be transferred by this Act to the Corporation. To prevent any doubt upon that point, there would be no difficulty in adding some words to Section 95 to say that nothing in this Act is intended to interfere with that control. But there is another question which, I think, wants our consideration—at all events the Executive Government must look to it—and that is, the Commissioner of Customs says it is absolutely necessary that there should be a Government bonded warehouse, as distinct from private warehouses licensed by the Commissioner of Customs. He says that by certain Sections of the Act, I think Sections 52 and 56, it is necessary that the goods referred to in those sections should be kept in a Government warehouse. Such warehouses are denominated in England the Queen's warehouses, and Mr. Reid maintains that there should be in Bombay a warehouse, or at least a portion of the warehouse, kept apart for this purpose, so that one of the consequences of our giving this warehouse over to the Trust, will be the necessity for building another warehouse to keep these special goods in, unless we can make an addition to this Bill, binding the Trust to make over a portion of the building to the Chief Officer of Customs for that purpose. This, certainly, is a consideration which must be taken into account. With regard to the other matter His Excellency mentioned, I think the correspondence he has read shows pretty clearly what were the views of the Government of Bombay and the Government of India when they were in correspondence as to the constitution of this body, *viz.*, not the creation of a Corporation composed of a body of private men, but the forming of a board of administration, subordinate to the Government. How that idea has been departed from I am unable to say ; but according to the form which we have adopted in this Bill, it appears that the intention is the creation of a separate Corporation with certain powers, and, unless the whole Bill is recast into a new shape, I do not see how we can carry out the change which His Excellency proposes.

Here His Excellency the PRESIDENT remarked that such a thing was not necessary.

The Honourable Mr. TUCKER continued—The enactment could be framed in another way, but it would depart from the leading principles of this Bill. I think therefore as the matter has gone so far, and the Government of India have approved of this measure generally, it would be advisable to continue this Bill and to make the additions to Section 95 which I shall be prepared to suggest hereafter. I may say there is another addition required which I would direct attention to, and that is, that as the owners of private warehouses are now liable to penalties under the Customs Act, if they do not act according to the rules imposed upon them by the Customs Department, and as these Trustees when they become the

owners of this warehouse will have similar conditions imposed upon them, it will be necessary to designate some one, either the chairman or secretary, who will be held to be the person responsible under those clauses of the Customs Act, so that there will be no difficulty experienced by the Customs officials in dealing with the Trust, in case of any breach of the law. With those additions, I am inclined to think it might be advisable to leave things as they are. If this were a new matter for consideration, I should be disinclined to make over this bonded warehouse to the Trust at all, and to do simply as His Excellency has suggested, assigning to them the annual revenues. If His Excellency thinks it necessary, we can do this by remitting the Bill to the Select Committee and adding the Honourable the Advocate-General to the Committee.

The Honourable Mr. BYTHELL pointed out that the present warehouse was very large and a part of it could be set apart as a Queen's warehouse. It, he added, was a matter of notoriety that the warehouse had not been much made use of lately by merchants, and, probably, if they adopted the suggestion to set apart a portion as a Queen's warehouse, there would be no objection to the remaining portion being handed over to the Trust.

The Honourable Mr. TUCKER—I have no objection to that; but there must be a certain portion set aside as a Queen's warehouse.

The Honourable Mr. BYTHELL—And as regards the constitution, I fancy the reason why we have drifted into this form, is that Calcutta has set us the example by establishing a body corporate, and we have merely done the same thing.

His Excellency the PRESIDENT replied in the negative and said—I was very anxious to meet the wishes of those advocates of the Bill in respect of the capital account difficulty which was mentioned yesterday, and also to hand over to the Trust the entire net revenue; and I was therefore in hopes that a clause something to this effect, and coming after the one conferring the property upon the Trust, might have been agreed to—"Nothing in the preceding or in any other section of this Act contained shall be construed to confer upon the said Trustees any power to control, or interfere with, the management of the Customs bonded warehouse, or the rates payable on goods deposited therein, which shall continue to be regulated according to the provisions of Act No. VI. of 1863; provided that Government shall cause the Trustees to be furnished annually with a statement of the sums received during the previous years, as the rates of such warehouse, and of the sums expended for the management and repair of the said warehouse and the collection of such rates. And the Government shall cause the surplus of the sums so received, after payment of the expenses aforesaid, to be paid to the said Trustees for the purposes of their Trust."

The Honourable the ADVOCATE-GENERAL—It seems to me that unless some special provisions are made in this Act, this bonded warehouse, whenever it passes into the possession of the Port Trust, will become a private warehouse and will be subject to the regulations of the Consolidated Customs Act, regarding private warehouses. If this is the case, a two-fold difficulty occurs to me. In the first place, His Excellency considers it undesirable that the control of this bonded warehouse should be given over to the Port Trust, and thinks that the Trustees should be in the same position as owners of private warehouses; and, in the second place, if that warehouse is so made over, there will be no Queen's warehouse left in Bombay, in which the Commissioner of Customs can store such goods as he is bound to store there under the 52nd and following sections of the Customs

Act. So far as His Excellency's object is concerned, one method occurs to me which would obviate the difficulty, although possibly it would not meet the Honourable Mr. Bythell's wishes; and that is to put a clause into this Act declaring these bonded warehouses which are to be made over to the Trust to be public warehouses within the meaning of the Consolidated Customs Act; by the 71st and 72nd sections of which they would be placed under the custody of an officer appointed by the Customs, and the Customs authorities would have power not only to arrange as to the particular place in which any particular goods should be kept, but also to fix the terms upon which goods should be deposited therein.

The Honourable Mr. BYTHELL—At the very most, only a small part of this large warehouse could be used as a Queen's warehouse, and I would not like to see the larger portion of it that would still remain placed under the management of the Customs authorities.

The Honourable Mr. NARAYAN—It ought not to be forgotten that as the Bill stands at present it vests the whole of the property in the Trustees, and makes them responsible for the whole of the amount it debits them with. It might not, therefore, be fair to take this part of their property from them and use it as a Queen's warehouse.

The Honourable Colonel KENNEDY—But the Trustees are not to pay interest upon the Apollo Bonded Warehouse.

The Honourable Mr. NARAYAN—Nevertheless, Rs. 5,50,000 is to be paid back to Government for it by the Trust; while a portion of it will be used for a Government warehouse.

The Honourable Mr. TUCKER—There will be no injustice done by reserving a portion of this warehouse for the purpose of the Customs Act; because the income derived therefrom will be given to the Trustees.

The Honourable Mr. FORBES—But I suppose that the Trustees might consider that they would derive a larger income from these warehouses if they were entirely under their own control. I believe that the value of the property will be considerably depreciated if it remains under the Customs' management as at present.

The Honourable Mr. NARAYAN enquired if this proposal were carried out, would the Trustees still be debited with the full value of the warehouse?

The Honourable Colonel KENNEDY having answered in the affirmative,

His Excellency the PRESIDENT said—I do not see why this should be so. I am aware that we are coming into the discussion of these points at a rather late period of the transactions and that, as it were, we are the unfortunate victims of the desperate struggle made by the Bombay Government to get this Trust into a solvent condition. For this reason, I believe, everything was gathered together to make a show of assets. This Corporation has come into existence nobody knows how, and I believe that this Apollo Bonded Warehouse came in as an "etcetera." It is by these proceedings that we are landed in our present difficulties.

The Honourable Mr. TUCKER—With reference to what has been said by some honourable members, I would remark that it does not follow that the Trustees as private owners of a warehouse would necessarily be licensed by the Chief Commissioner of Customs, and therefore there is nothing in this Bill which gives them any right to insist upon having licensed warehouses. Of course, there is no doubt that the Chief Commissioner of Customs would let the Trustees have licences, so long as they conformed to the Consolidated

Customs Act; but, nevertheless, I think it right that the position of matters here should be understood.

After some further discussion, the Honourable Mr. TUCKER remarked—The Commissioner of Customs objects to this part of the section—"Provided that it shall be lawful for the Trustees to land, ship, or tranship goods between vessels in the harbour of Bombay and the wharves or bunders, and to make such charges in respect thereof, as they shall think fit, without the sanction of Government." He considers that by giving them this full latitude they would be given power to break certain of the provisions of the Consolidated Customs Act.

The Honourable Colonel KENNEDY—That was certainly never intended. All that was desired by the Select Committee was that the Trustees might be enabled to undertake muccadum's business.

The Honourable Mr. TUCKER—There are certain circumstances under which people are not allowed to tranship under the Customs Act. Therefore, some provision must be made that this section shall not interfere with any of the Customs' regulations or laws.

The Honourable the ADVOCATE-GENERAL said the difficulty raised would be avoided by inserting the words in the Proviso "subject to the provisions of any law for the time being in force."

This amendment was agreed to.

His Excellency the PRESIDENT—Just to test the feeling of the Council, I propose that from "and under" down to "warehouse" in the 31st, 32nd, 33rd, 34th and 35th lines, be omitted. I propose this as a mere matter of form, intending, when the time comes, to insert the following section after the section vesting the titles in the Trust—"Anything in the preceding section hereof to the contrary notwithstanding, the Apollo Bonded Warehouse shall, for the purposes of Act No. VI. of 1863, be deemed to be a public warehouse," &c.

The Honourable Mr. NARAYAN—I thought that His Excellency's proposal at first was to set aside a portion of the warehouse as a public warehouse.

His Excellency the PRESIDENT—That was never my suggestion.

The Council divided on His Excellency the President's amendment:—

Ayes—2.	*Noes*—9.
His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE.	The Honourable H. P. ST. G. TUCKER.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable A. ROGERS.
	The Honourable the ADVOCATE-GENERAL.
	The Honourable MUNGULDASS NUTHOOBHOY
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable Sir JAMSETJEE JEJEEBHOY.
	The Honourable J. A. FORBES.
	The Honourable NARAYAN VASUDEVJEE.
	The Honourable J. K. BYTHELL.

The amendment was therefore lost.

The section was then agreed to, and stands part of the Bill.

The Honourable the ADVOCATE-GENERAL moved that the words in Section 57 after "until" in line 10 should be omitted, and the following substituted—"other officers shall be appointed under the provisions of this Act."

The amendment was agreed to, and the section as amended stands part of the Bill.

Should the Trustees, foreseeing a deficiency in income, proceed to increase dues without being told to do so by Government.

His Excellency the PRESIDENT—I do not agree with the terms of a part of Section 58, and if there is any deficiency foreseen in the estimated income of the Trustees, I cannot understand why they should wait until they are told by Government before they proceed to meet the deficiency, by increasing the tolls, rates, dues, or charges for the time being in force. Why should the odium of increasing these charges be thrown upon Government?

The Honourable Mr. FORBES—I think there is some reason why the section should remain as it stands, so far as His Excellency's objection is concerned. I do not think that the Trustees, whenever they anticipate that their revenue will not meet the payment of interest to the Secretary of State, should have power at once to raise the tolls and dues upon ships. A year or half year may be a particularly bad one commercially, and, in such a case, it would be better for the Trustees to wait for a time and see what turn the tide of trade was taking. In order to meet the difficulty without having recourse to an increase of charges on the Trade, they might reduce their establishments and the expense of their arrangements, or stop works, or they might be able to negotiate with Government as to what payments they should be called upon to pay. In no part of the world are tolls and charges on the Trade of a Port liable to such ups and downs as they will be in Bombay if these Trustees are to alter them, or be compelled to alter them whenever a deficiency in income is anticipated.

The Honourable Mr. TUCKER thought it would be better to allow the section to remain as it was, because Government must assume the right to see that the trade of the port should not be injured by undue taxation. Increasing tolls, rates, dues, and charges was not, he considered, a power which should be left entirely with the Trustees.

The Honourable Colonel KENNEDY—I think it must be an essential principle of this Bill that the Trust shall pay its way, and it ought to be imperative that they should increase their rates in the prospect of a deficiency.

The Honourable Mr. NARAYAN thought that in the case of the port suffering from a cyclone, provision might be made whereby Government, as an exceptional case, might give the Trustees time to meet liabilities.

The Honourable Mr. BYTHELL objected to the Trustees being compelled by Government to raise their rates summarily, because such a course might seriously injure the trade of the port. For instance, shipowners at home would prefer sending a vessel to other ports than Bombay, unless at higher rates of freight, if they saw that the regulation of charges there was so uncertain that it was possible the rates might be quite different when vessels arrived from what they were when they sailed. He thought the Trustees ought to be allowed to provide for any deficit in an exceptionally bad year during the next succeeding year, and not be compelled to raise the port dues in the middle of the season before they really could ascertain whether there would or would not be a deficiency.

The Honourable Colonel KENNEDY thought that if the Council agreed to the Honourable Mr. Bythell's views, a dangerous element would be introduced into the arrangements which had been made for the government of the Trustees, to whom the way would be opened to come forward with statements about the decline of the trade of the port as an excuse to get rid of their annual obligations. The Honourable Mr. Forbes had dropped some remarks indicating that he believed there would be a diminution of revenue whenever the Trustees assume charge of the Trust property; but he, the honourable speaker, held a contrary opinion and believed there would be an increase of revenue.

The Honourable Mr. FORBES—I think the trading community will be placed in an unfavorable position if we retain this section as it is; and I think that the Trustees should only be called upon to raise the charges on trade in order to meet the claims that may be due to creditors *other* than the Secretary of State, instead of, as the section now says, "to the Secretary of State for India in Council, and to other creditors." I think that Government have already ample powers to protect themselves with regard to this Trust and it would only be in the case of the revenue being likely to fall short of a sum sufficient to pay the interest of the money raised on debentures, or other debts to the public, that I could approve of the Trustees being permitted to raise the dues or tolls and other charges upon ships and upon the trade of the Port. If it were supposed that the Trustees would not be able to pay, in any one year, the interest required to be paid to the Secretary of State, they then could enter into negotiations with Government, which, if circumstances were fairly put before it, would not, I think, object to some arrangements being come to whereby the trade of Bombay would not be subjected to enhanced charges. I think it would be extremely unfortunate for this city if, as shipping diminished in the harbour, dues upon them should be increased, and I would point out that the only way in which the revenues of the Trust are likely to decline, is in consequence of the general trade of the port declining and the number of ships falling off. I have looked at the correspondence which has passed between the Government of India and the Government of Bombay, and it appears to me that the Government of India have no wish to increase the burdens on the trade of Bombay, and I have gathered that the local Government would be equally averse to such a course.

His Excellency the PRESIDENT remarked that it appeared to him the Honourable Mr. Forbes desired to give protection to creditors who did not at present exist, and to take away security from the only creditor that did exist, the Government.

The Honourable Mr. FORBES—That particular creditor is very well secured, and to raise the interest on the debt due to him the port of Bombay is already burdened with an increased annual payment of £ 25,000 a year in the shape of the new Bunder Fees.

The Honourable the ADVOCATE-GENERAL—I think it would be departing from the principle upon which this Council has hitherto dealt with the Bill if we agreed to what the Honourable Mr. Forbes has suggested. A bargain has been made with the Government of India which we must respect, and I do not think that we could ever succeed in getting the Secretary of State to forego his interests in the manner proposed. I agree with the Honourable Mr. Bythell that it would be very undesirable, indeed, if this section operated as a means of driving away vessels from the port, because of the uncertainty that might prevail regarding rates; but, for that same reason, I think it will give the port a better chance if the onus of increasing the rates were cast on Government, as they are by this section,

instead of on the Trustees. I could not vote for the Honourable Mr. Forbes' amendment; but I should be prepared to meet him to a certain extent by proposing in the 27th line the insertion of a few words that would make an increase of rates necessary only in the very last resource. I would propose that the increase should only be allowed after every possible retrenchment had been made.

The Honourable Mr. TUCKER considered the Honourable Mr. Forbes' amendment entirely out of the question; and that the course suggested by the Honourable the Advocate General would be the most expedient to pursue.

After some further discussion,

The Honourable Mr. FORBES withdrew his amendment, and

The Honourable Mr. BYTHELL moved that the whole section should be expunged, with the view of inserting another section which would make it incumbent upon the Trustees to provide for any deficit ascertained at the end of one financial year, by some means or other during the year next succeeding.

The Council divided on the Honourable Mr. Bythell's amendment:—

Ayes—2	*Noes*—8.
The Honourable J. A. FORBES.	THE Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable J. K. BYTHELL.	The Honourable H. P. St. G. TUCKER.
	The Honourable A. ROGERS.
	The Honourable the ADVOCATE-GENERAL.
	The Honourable MUNGULDASS NUTHOOBHOY.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable Sir JAMSETJEE JEJEEBHOY.
	The Honourable NARAYAN VASUDEVJEE.

The motion was therefore lost.

The Honourable the ADVOCATE-GENERAL then moved that in Section 27, between "will" and "be," the following words should be inserted—"after making all such retrenchments as may be practicable."

This was agreed to, and the section as amended was agreed to and stands part of the Bill.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under Secretary to Government.

Bombay, 16*th January* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay, on Friday, the 17th January 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable H. P. ST. G. TUCKER.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

The Bombay Port Trust Bill considered in detail.

The Council proceeded with the consideration of the Bombay Port Trust Bill in detail.

In line 13 of Section 59, the words "shall be levied by the Trustees and" were inserted between "order" and "shall."

The proviso at the end of Section 60 was struck out, and the section as amended stands part of the Bill.

In line 1 of Section 63, "and" was omitted and "and charges" inserted after the word "dues."

The Honourable the ADVOCATE-GENERAL—Upon the suggestion of the Commissioner of Customs I intend to move that the money received from sales shall, in the first place, be applied to the payment of the dues and other charges which are leviable under any Act for the time being in force in relation to Customs. There is no doubt that a debt to the Crown must be discharged preferentially to other claims.

The Honourable Colonel KENNEDY considered that the expenses of sale ought to be first discharged.

His Excellency the PRESIDENT could not see why the Customs should be called upon to pay the costs of the sale, because the sale would not be by order of the Commissioner of Customs, but one merely in satisfaction of the charges of the Trustees.

The positions of clauses 1 and 2 were then altered, and in line 26, "applied" was substituted for "held," and in line 27, "upon trust for" were struck out and "to" inserted.

In line 19 of Section 65, "fifteen" was substituted for "five" on the motion of the Honourable Mr. NARAYAN VASUDEVJEE.

The Honourable the ADVOCATE-GENERAL and the Honourable Mr. BYTHELL mentioned cases to show that five days was too short a time to give a master or owner of a vessel

time to make arrangements to stave off a threatened sale of his property, in order to meet the Trustees' claims upon it in respect of his default in paying tolls, dues, rates, &c., payable under the Act. The section was then agreed to, and stands part of the Bill.

The words "or against such vessel" in lines 12 and 13 of Section 66 were struck out, and the section as amended was agreed to.

The Honourable Mr. ROGERS moved that before the word "the" in line 10 of Section 68, the following words should be inserted—"or when the Chief Customs authority of the Presidency shall license any warehouse, or portion of a warehouse erected or acquired under this Act, for the reception of goods under any Act, for the regulation of duties of Customs"; and that between "Pier" and "such," in line 12, the words "or in such warehouse or portion of a warehouse" should be inserted. It was necessary, he remarked, that an officer of Customs should always have accommodation in any place set apart as a bonded warehouse.

The Honourable Mr. BYTHELL thought that the suggested alteration was not required because the Commissioner of Customs, from the power he possessed of refusing or suspending licences without assigning any reason for the action, could always make his own bargain with respect to accommodation for his officers.

After some conversation the amendments were carried.

In line 10 of Section 69, "or therein" was inserted between "thereupon" and "shall."

In line 5 of Section 70, the words "or any animal matter" were struck out.

In the first three lines of Section 73, the words "commencement of this Act" were struck out and the following words substituted—"date on which this Act shall come into operation," and in line 6 "be" was substituted for "stand."

The following words were inserted after "Bombay" in Section 74—"under Act XXII of 1855, or any other law for the time being in force."

The Honourable Mr. NARAYAN VASUDEVJEE called attention to Section 79, which relates to the responsibilities of the Trustees, as Conservators of the Port, and remarked that it was one of great importance to the mercantile community.

The Honourable Colonel KENNEDY said the section had been taken word for word from Act XXII. of 1855.

His Excellency the PRESIDENT did not consider it quite fair that, if a vessel was damaged in consequence of some fault of the Trustees or their servants, the master or the owner of a vessel had no remedy.

The Honourable Mr. NARAYAN—They have no remedy at present against Government.

The Honourable Colonel KENNEDY—The Railway Companies are public carriers and come under the laws relating to public carriers; but the Trustees cannot come under such a law, and this section is merely meant to protect them as Conservators of the Port.

The subject dropped, and Section 79, together with Section 80, was passed, and stands part of the Bill.

The words "with the sanction of the local Government," in lines 5 and 6 of Section 81, were struck out.

The Honourable the ADVOCATE-GENERAL thought there was no necessity for retaining section 82, relating to powers to make improvements, since, by preceding sections, general provision regarding works had been adopted, which was all that was required.

The Honourable Colonel KENNEDY agreed that other sections would cover Section 82, and the Council agreed to expunge it.

The following words—" or of any bye-law or port rule made in pursuance thereof" were inserted after the word " Act" in line 3 of Section 83.

In Section 84, " or acquired" was inserted after " constructed" in line 9, and the words, from " for regulating" to " remain," in lines 24, 25, 26, and 27 were struck out. These alterations were made to avoid the powers given to the Trustees clashing with the powers vested in the Customs authorities by the Customs Consolidated Act.

In Section 85, wherever the words "bye-law" occured "or port rule" was inserted after them.

In the last line of Section 86, " 84 and 85" were struck out, and the following words substituted—" 83 and 84 and any port rule made under the provision of Section 81."

In line 3 of Section 87, " or port rule" were inserted between "bye-law" and "shall."

In line 2 of Section 88, "and port rules" were inserted after "bye-laws."

Regarding Section 89 the Honorable the ADVOCATE-GENERAL thought that the precedent of the Consolidated Customs Act and the Municipal Act should be followed in this section with regard to the time that should be allowed for the institution of suits; but on the suggestion being opposed by the Honourable Mr. Bythell, Colonel Kennedy (who argued that in this matter it would be better to follow the Calcutta Act), and other members, the honourable member withdrew his objections.

The following amendments were made in Section 90 :—The word " local" in line 3 was struck out. The following words were inserted in line 4 after " works"—" in the possession of or in the course of construction by." The word " of" in line 5 was struck out, and in line 6 "thereof" was omitted and "of any proposed works" substituted.

The following amendments were made in section 92—In line 7 " or for work done under the provisions of the preceding section" were inserted before " shall" ; the words " if it shall think fit" were inserted after " Government" in the 9th line ; and all the proviso was struck out, because of its ambiguity.

Section 93 was amended as follows:—the words " all rights of levying and recovering tolls, dues, and rates " were struck out of lines 28 and 29 ; the word " and" was struck out of line 34 and the following words inserted after the word " Council"—" and all rights of levying and recovering tolls, dues, rates, and charges, and all powers of every nature and kind whatsoever vested in the said Trustees under this Act shall be transferred to and vested in the local Government ; Provided always that."

The Honourable Mr. TUCKER said he would like some section introduced, in which somebody or other connected with the Trust might be nominated as owner, because, as this Trust would be liable for a number of things, it would be desirable to have some responsible person to proceed against.

The Honourable the ADVOCATE-GENERAL—The Trustees would have to appear before a court of law in the same manner as other corporations do.

The Honourable Mr. TUCKER—But, as I have said, somebody must be held to be responsible.

The Honourable the ADVOCATE-GENERAL—I suppose that the person who applies for a license on behalf of the Trustees for the opening of a warehouse, would be in the same position as the secretary or manager of a company, and he would be looked to by the Customs authorities as the responsible party. The goods or chattels of a company can always be distrained.

The Honourable Mr. TUCKER—But under the Customs Act these Trustees, for certain misdemeanours, would be liable to imprisonment.

The Honourable the ADVOCATE-GENERAL—In that case the whole corporation can hardly be locked up.

The Honourable Mr. TUCKER—It is for that reason that I think somebody should be declared to be responsible.

The Honourable the ADVOCATE-GENERAL said he did not apprehend any practical difficulty would arise as to this subject.

On the motion of the Honourable the ADVOCATE-GENERAL the following section was added after Section 95 :—" Nothing in this Act contained shall affect any power or authority vested in the Chief Customs authority of the Presidency, under any law for the time being in force for the administration of Sea Customs in India."

The Council then proceeded to consider the sections upon which decisions had not been come to.

The question whether the chairman should be a salaried official first came before the Council for consideration.

Regarding Section 6, the Honourable the ADVOCATE-GENERAL was going to say that if a Chairman was appointed as executive officer and he was paid a large salary, say Rs. 3,000 a month, when the Honourable Colonel KENNEDY observed that he did not contemplate so large a sum as that.

The Honourable the ADVOCATE-GENERAL—Then say Rs. 2,000. If the Chairman is paid this amount, that will be $2\frac{1}{2}$ per cent. upon the estimated revenue, which is about ten lakhs of rupees.

The Honourable Mr. BYTHELL—Only eight.

The Honourable the ADVOCATE-GENERAL—Then that makes the percentage all the greater.

The Honourable Mr. TUCKER—It is clear that the Trust cannot stand that.

The Honourable the ADVOCATE-GENERAL—In Calcutta, they have a chairman, who is a high official, and a deputy chairman who is executive officer. In the Commissioners' report they speak in the highest terms of the way that arrangement works.

The chairman to be a salaried official of the Trust, and Government to settle the salary or allowances.

The Honourable Mr. TUCKER—I think a somewhat similar plan might be adopted in Bombay, where we have an officer like Mr. Ormiston, who would be willing to act as the deputy chairman of this Trust. He is now an officer in our employment and I think he would make an excellent officer for the work of the Trust, not only as an engineer but as an able man of business.

His Excellency the PRESIDENT—I think it is bad policy to discuss individuals in connection with the creation of offices generally.

The Honourable Mr. TUCKER—I merely mention Mr. Ormiston's name because he is already a highly-paid officer of ours, and one who would be willing to undertake the duties of deputy chairman.

The Honourable Colonel KENNEDY—The Trust may have heavy works to carry out, such as docks, and I think it would be extremely undesirable that the chief executive officer of the Trust should also be the engineer responsible for these works.

The Honourable Mr. BYTHELL—In the meantime, there is no possibility of any large and expensive works being undertaken, and, therefore, it would be better to leave the section as it is. I think we might leave it to the local Government to determine the salary or allowances.

The word "and" in the fifth line was omitted and "or" substituted.

It was agreed to strike out "salaried" in the Bill wherever it occurred in connection with the mention of the chairman.

On the motion of the Honourable the ADVOCATE GENERAL the following clause was added to Section 8 :—

"(8.) Provided also that as to the Customs Bonded Warehouse in Schedule C mentioned it shall be lawful for the Chief Customs authority of the Presidency to approve and appoint so much of the said Customs Bonded Warehouse as may, in the opinion of the local Government, at any time be necessary to be a public warehouse, for the reception of goods under Act VI. of 1863, and the said Trustees shall forthwith set apart, and shall maintain in good order, such portion of the said Customs Bonded Warehouse to be a public warehouse, as aforesaid; but the said Chief Customs authority shall from time to time, as the local Government may direct, pay over to the said Trustees any surplus income, after payment of all charges and expenses of management, that may be derived from the use of any portion of the said Customs Bonded Warehouse, as a public warehouse, as aforesaid."

The Honourable the ADVOCATE-GENERAL gave notice that at the third reading of the Bill he would ask leave to introduce a provision, that the Trustees should provide public landing-places, which might be used by the public, free of charge.

The Honourable Colonel KENNEDY said he thought that this proposal would be quite unnecessary.

The Council then proceeded with the consideration of the schedules.

Regarding Schedule C, the Honourable Colonel KENNEDY moved that the clause of the schedule relating to the Gun Carriage Reclamation, should be made to read thus :—

The right of levying wharfage fees, tonnage fees, rents, rates, and dues, on all goods other than those belonging to the Bombay, Baroda, and Central India Railway Company, landed at or stored upon the Gun Carriage Reclamation, which is bounded," &c.

This was agreed to.

The Honourable Colonel KENNEDY next brought up the subject of exemptions. As the schedule stood, the Trustees could levy rates upon troops and munitions of war landed at the Dockyard, because the Trustees were vested with the whole of the foreshore from the Custom House Bunder to the Wellington Reclamation, which included the Dockyard.

His Excellency the PRESIDENT asked the Honourable Colonel Kennedy if the Government of India had given their sanction to rates being charged for the landing of troops and munitions of war at the Dockyard.

The Honourable Colonel KENNEDY said that no such sanction had been finally and definitely obtained; but the Bill had been before the Government of India for some time, and they must have been cognizant of the powers which it was proposed to vest in the Trustees. The Select Committee upon the Bill had decided to leave the whole matter of exemptions to the decision of the full Council.

His Excellency the PRESIDENT did not think that the Trustees should have power to charge for the landing of men or munitions of war at the Dockyard, but that they should be empowered to levy charges upon commissariat stores landed there.

It was decided to omit the following (11th) paragraph of the schedule, and to make representations to the Government of India, upon the subject of making an allowance to the Trustees for the privilege of landing troops and military stores along the foreshore :—

"The foreshore from the Custom House Bunder to the Wellington Reclamation, with the right to levy wharfage or tonnage fees and other rates and dues on goods, landed at any wharves thereon or over any sea wall adjacent thereto."

In Schedule D, the following alterations were made on the motion of the Honourable Colonel Kennedy:—The 1st line was made to read thus—" The lighthouse on Dolphin Rock, with all the fittings." &c. In line 1 under the heading " Lightships, Boats, &c.," "Bombay" was substituted for "Colaba"; and in the next line " Shannon" was omitted and " Colaba" substituted. In the 6th line, " each " was inserted after " tons." After line 12 the following became line 13—" Two spare boats for pilot schooners." The line 2 under " Miscellaneous " was omitted.

The schedule was then agreed to, and stands part of the Bill.

In Schedule F, it was agreed that the seal of the Corporation should be attached to the form of debenture.

The Honourable Colonel KENNEDY moved the following alterations in Schedule G—That the items: "Apollo Bonded Warehouse," " Custom House Godowns," should be bracketted together, under the head "Customs Bonded Warehouse;" that the figures against the item, " Balance of interest unpaid at 31st March 1871," should be, in the 2nd and 4th columns, Rs. 2,75,273-4-7; that the figures against "Do. do. 31st March 1872," should be in the 2nd and 4th columns, Rs. 1,50,233-3-2, that in the 1st column,

the following words should be struck out from the first entry; "Whatever amount may be recorded in the books of the Accountant-General, Bombay," and that these words should be transferred to the second column and placed beneath the figures Rs. 1,50,233-3-2.

These alterations were agreed to, and the schedule stands part of the Bill.

The Council then proceeded to the consideration of the preamble, which was agreed to, and stands part of the Bill.

The first three lines of Section 1 were struck out. The definition of "vessel" was struck out, and the following definition substituted—"The word 'vessel' denotes anything made for the conveyance by water of human beings or of property.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under Secretary to Government

Bombay, 17*th January* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Tuesday, the 11th February 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

THE BOMBAY PORT TRUST BILL.

Amendments proposed before the third reading of the Bombay Port Trust Bill.

Before the motion that the Bombay Port Trust Bill be read a third time was put to the vote, the Council proceeded with the consideration of the amendments which were proposed in the Bill.

At the suggestion of His Excellency the President, the Council proceeded to do as they did upon the third reading of the Municipal Bill, *viz.*, go over the Bill, and take up the notices of motion in the order of the sections to which they alluded.

The Advocate-General moves a number of formal amendments.

The Honourable the ADVOCATE-GENERAL apologized to the Council for bringing up a number of verbal amendments on the third reading of the Bill. The reasons why he had not done so before were his arriving from home so recently, and that during the discussions on the second reading, he had not had time to go through the Bill as carefully as he had since done. He then proposed that in the first line of the second section "and of any rules and bye-laws made in pursuance thereof" should be inserted between "Act" and "the"; that in line 15 "shall" should be inserted after "vessel" and that "denotes" should be made "denote"; that in the 51st line "hard" should be inserted before "or"; that in line 1 of section 4 "of" should be substituted for "for"; that in the 9th and 10th lines "and shall have power to hold land" should be omitted, there being no use for these words, since the power to which they alluded was specifically given in section 30; that in the 44th line of section 8 "said" should be inserted between "the" and "Secretary"; that in line 45 "for India in Council" should be omitted; and that in the 64th line "and Pilotage" should be inserted before "Board," Harbour and Pilotage Board being the correct designation.

All the proposed alterations were agreed to.

Colonel Kennedy proposes, as a compromise, that the Trustees should pay an annual sum of Rs. 50,000 to the municipality in lieu of all municipal taxes, except service rates.

The Honourable Colonel KENNEDY then moved that the following words be added to section 9—"And inasmuch as certain parts of the lands and property vested in the Trustees under the preceding section of this Act have heretofore been liable to be rated and taxed for the purposes of the Municipality of Bombay, there shall be payable to the said Municipality of Bombay out of the revenues of the Trustees of the Port of Bombay the annual sum of Rs. 50,000 in lieu of all municipal rates and taxes, except rates and taxes for the supply of water and halalcore service; and in consideration of such annual payment the said Municipality of Bombay shall, when and as soon as any roads and public thoroughfares have been levelled, paved, metalled, flagged, channelled and sewered to the satisfaction of the Municipal Commissioner, and have been declared by the Trustees to be public thoroughfares, maintain and keep in repair and light and cleanse all such roads and public thoroughfares and places devoted to the use of the public, in and upon the said lands and property vested in the Trustees under this Act in such and the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares and places devoted to the use of the public were vested in the Municipality of Bombay. Any dispute between the Municipal Commissioner and the said Trustees as to any road being in a fit state according to the provisions of the Bombay Municipal Act in force for the time being to be declared a public street, such dispute shall be determined by the Government, whose decision shall be final in the matter. The said sum of Rs. 50,000 shall be payable and paid to the said Municipality of Bombay on the 30th day of September in every year."

He (the Honourable Colonel KENNEDY) said—I move this in consequence of the recent vote in this Council upon the section referring to the taxation of the property of the Trust for municipal purposes, and my present object is not that the Municipality should be in any way defrauded, but merely that both parties should accept what I consider a reasonable compromise. As matters now stand, although the Trustees will have to make certain roads upon their property, they may be compelled to pay the Municipality for maintaining them in repair, although the Municipality may possibly refuse to do this duty. When the question of exempting the Trust from municipal taxation was formerly considered, I understood the Honourable the Advocate-General to say—and I think other members of this Council understood him to say—that the Trust property would, although transferred to the Trustees, still remain the property of Government; and we are aware that by the new Municipal Bill Government property is to be exempted from municipal taxation. I may be mistaken, but I believed His Excellency to have indicated a similar opinion to the effect that the Trust property would not be taxable by the Municipality. I saw Mr. Pedder, the Municipal Commissioner, on Friday last, and we had a conversation about the subject of the present amendment. I then understood him to agree that a payment by the Port Trust to the Municipality of Rs. 50,000 annually would be a fair compromise, and I am now surprised to read in the concluding paragraph of his statement that "the sum of 50,000 per annum as a lump assessment by way of compromise appears to me to be altogether too low. Considering prospective increase of assessment, I doubt if the municipal rates can be fairly compounded for less than a lakh of rupees." I repeat that I am taken by surprise by this statement, because if the full amount of municipal assessment on the Port Trust estate had been levied last year, it would only have amounted to about Rs. 77,000. It is surely an extraordinary kind of compromise that would propose to take Rs. 1,00,000

a year from the Trust for what, it has been shown, is at the utmost worth only between Rs. 70,000 and Rs. 80,000. I may state that the old Elphinstone Company actually paid to the Municipality an actual sum of Rs. 26,000, which is only a little more than half of the sum which my amendment offers as a compromise; and even upon the settlement against them of a dispute regarding their liability to pay rates upon Carnac Bunder rent, they would have had to pay in all only about Rs. 38,000. If the property had been assessed according to the present Municipal Bill, the amount to be paid would have been only Rs. 53,750. This matter of taxing the property of the Trustees is, I need hardly say, one of great importance. There is at present a very small margin calculated in favour of the Trust—that is to say, the estimated income is just slightly above the liabilities at the present moment—but if the property is to be made liable to the extent which Mr. Pedder suggests, that small balance will be converted into a deficit. I hope this Council will not lose sight of this fact in the course of any discussions upon the question now at issue. Rs. 50,000 is a fair sum to offer as a lump assessment. It is true that the property may become more valuable, but it may also become less valuable; and another thing to look at is this, that if the Trust does prosper, the Trustees will be able to relieve the burdens upon the trade of the port, and as they sell land their assessable income will diminish.

The Honourable NARAYAN VASUDEVJEE—His Excellency is aware that after the second reading of the Municipal Bill, the Rate-payers' Committee submitted a memorial, to which were appended the opinions of two leading members of the Bombay Bar, in which they controverted the exposition of the law by the Acting Advocate General, as regards the immunity of Government property from municipal taxation. The learned Advocate-General, the Honourable Mr. Scoble, appears to concur in these opinions, and the Municipality has reason to regret that the Council had not the benefit of his advice during the discussion on that Bill. However, the subvention kindly promised by His Excellency removed to a certain extent the grounds of dissatisfaction felt on this subject, and it would have been unnecessary to re-open the question if Government still retained absolute possession of these bunders; but as, under the present Bill, Government part with their interest in the property, and the only obligation imposed upon the Trustees is to re-imburse the interest due on the outlay from the Imperial exchequer, it will be impossible, if the amendment proposed by the Honourable Colonel Kennedy is carried, for His Excellency to redeem the pledge in the equitable spirit in which it was given as regards the payment of rates, and the Trustees will be free to reject any overtures of the Municipal Corporation for an equitable adjustment of the claim. The tendency of the legislature in England, at the present day, is, I believe, to make the property of the Crown liable to local rates, and I submit that if, in vesting these bunders in the Trustees, this Council approved the course advised by the Honourable Colonel Kennedy, it would lay itself open to adverse but not unfair criticism. I maintain that it is the duty of this Council to consider the interest of all classes of the community alike, and that the honourable mover of the resolution has not shown why the interests of all other classes of the community should be made subservient to that one class particularly interested in trade. What the mercantile community principally object to, I believe, is the hindrance to free trade, and if under this Bill tolls or bunder fees must be recovered, surely an infinitesimal addition thereto, to meet full municipal rates, cannot reduce this town to a fishing village! A majority of this Council recently went so far as

Mr. Narayan opposes Colonel Kennedy's compromise, and holds that the Trustees should pay municipal rates in the same way as the general public.

to vote a small tax upon cotton, in view of the pecuniary wants of, and the services rendered by, the Municipality, and it would certainly be a retrograde step to deprive it of its legitimate income from the rateable value of these properties. The Honourable Colonel Kennedy seems to think that the Municipality is not entitled to claim full rates for the bunders now being vested in the Trustees, because they do not derive any benefit from local improvements; but he has forgotten that the setting apart of one of these bunders for the landing of troops, from which the Trustees are to derive an annual income, will compel the removal of the night-soil depôt at a cost far exceeding the maximum sum of Rs. 75,000 which the Municipality could hope to collect as rates from the Trust property. The work will absorb about four lakhs of rupees, the interest on which, at 5 per cent., is equal to Rs. 20,000. The maintenance of the depôt elsewhere is estimated at Rs. 60,000, or Rs. 80,000 in all per annum. Is it fair, I ask, to impose this obligation on the Municipality, and yet deliberately deprive it of its legitimate dues from these bunders? Again, are the Trustees to benefit by the security and protection afforded by our police and fire brigades without contributing their quota towards the maintenance of these establishments? The Government of India, when devolving the cost of the police on the Municipality in 1864, recognized the necessity of a contribution of one-fourth of the entire cost by Government in all principal sea-port towns. I cannot doubt that the object was to provide some relief from the heavy expenditure involved in the maintenance of order among a turbulent sea-faring population, especially such as are attracted here by trade from the Persian Gulf, and elsewhere. But as the Municipality does not enjoy such a contribution, I think it is all the more necessary that it should receive what is fairly its due. The honourable mover of the Bill now proposes to allow the Municipal Corporation an annual sum of Rs. 50,000 in lieu of all municipal rates and taxes, excepting the service rates, while I estimate the amount payable at present at Rs. 75,000, and in consideration of such annual sum the Municipality is to maintain and keep in repair and light and cleanse all such roads, thoroughfares, and places devoted to the use of the public, as now exist, or may hereafter exist. This imposes an obligation on the Municipality which the general public have not yet acquired or been able to obtain, because, as I had the honour of informing His Excellency at the second reading of this Bill, the whole of the outlying districts of Bombay, which pay *all* rates and taxes leviable under the Municipal Act, are at this moment without proper roads or a single gas lamp. The Corporation have hitherto accepted the maintenance of any roads that may have been constructed by a private individual and been given up for the use of the public, and I have no doubt that they would act in the same way towards the roads of the Trust if they receive what they are justly entitled to in the shape of rates; but if this is done, an important question arises, whether the Trust can continue to levy any tolls on conveyances using these roads. Mr. Pedder has kindly placed me in possession of a correspondence between himself and Mr. Thorburn, who was Accountant to the Elphinstone Company, which shows that the cost of repairing the roads on the Elphinstone property annually amounted to Rs. 5,800, whilst the tolls on carts passing over the roads came to Rs. 16,876. If, therefore, the obligation of repairing the roads were imposed upon the Municipality, it would be necessary to stipulate that such tolls should cease. It must not be forgotten that this Bill empowers the Trustees to acquire immovable property, and with the sanction of Government even to raise a loan for the purpose. Thus, then, while the payment to the Municipality of an annual sum of Rs. 50,000 is to be a fixture, the landed estate in trust may not only increase in value, but may become so at the cost of the Municipality,

which would, by the Trustees being permitted to acquire additional property, be deprived of what it had been receiving on such property. The various reclamations on the eastern and western foreshore have seriously interfered with the drainage of the town. The recent decision of the High Court regarding the Worlee pumping station has placed the Municipality in a very awkward position. No one knows better than the Honourable Colonel Kennedy himself that several important works—take, for instance, the Sonapore Drain—which have been shelved, will have to be taken in hand by the new Corporation, and considering that the various Government resolutions with which the Municipality has been politely favoured under his own hand will necessitate an expenditure of over half a million sterling, with all deference to the honourable mover of the Bill, I cannot help expressing surprise that he, of all others, should propose any measure tending to deprive the Municipality of its legitimate income.

The Honourable the ADVOCATE-GENERAL—It seems to me that, notwithstanding what the Honourable Mr. Narayan has urged, the compromise proposed in the amendment is a fair one, considering all the circumstances of the case. With regard to what the honourable mover of the amendment has said, I may observe that on a previous occasion I took an opportunity of correcting a misapprehension which he had fallen into with respect to what I said upon the question of municipal taxation of Government property. I said then, and I may repeat it again, that I considered that the reversion of this property would remain with Government, but not the freehold, as the Honourable Colonel Kennedy appears to think; and I also stated then that it appeared to me that it was competent for this Council not only to subject the property of the Port Trust to municipal taxation, but also the property of Government generally. I shall not go over all that ground again, but I will only add that the liability of Trust property of this description to be taxed for municipal purposes appears to have been already recognised by the Government of India in the case of Calcutta. I see in page 2 of the Administration Report of the Calcutta Commissioners for making improvements in the Port of Calcutta, that there is an allusion to the question of the relations which should prevail between the Municipality and the Port Trust, and the Government of India state their opinion that the Trustees should have jurisdiction over the Strand Bank, "subject to the payment to the municipal funds of the same rates on buildings or works as are levied on similar descriptions of property in other parts of the Town." Now, if the Port Trust in Bombay stood upon the same footing, financially, as the Port Trust in Calcutta, I would support the Honourable Mr. Narayan's opposition to the amendment, and his claim that the Trust property should be assessed fully by the Municipality; but it appears to me that there is a great money difficulty, and that this is a case in which concessions might very advantageously be yielded by both sides. The sum now proposed to be paid is two-thirds of the amount which, according to the Honourable Mr. Narayan's calculation, would be recovered by the Municipality if the whole of the property were subjected to municipal taxation; and I think that that is a fair offer, considering, as I have said, the circumstances of the case. I have not had an opportunity yet of reading Mr. Pedder's memorandum, which unfortunately was only circulated to the members of Council when they came into this room to-day, so that it is impossible for me to refer to the arguments which he may have used; but upon

The Advocate-General considers the proposed compromise a fair one, and takes occasion to explain his views regarding the general question of the taxation of Government property for municipal purposes.

general principles I think the amendment embodies a fair compromise, and I shall give it my support. With regard to one of the observations which were made by the Honourable Mr. Narayan regarding tolls upon the roads which are to be made over at some period or other to the Municipality, I may say that under the present law no toll can be levied upon a public thoroughfare, and therefore no matter what tolls may be levied upon the roads at present, these tolls, when the roads are given over to the Municipality, must *ex necessitate* cease to be levied. I do not think that the argument used by the Honourable Mr. Narayan regarding certain misfeasances of the Municipality in some parts of the island has much force, except as showing the wisdom of guarding against similar misfeasances in regard to the roads and ways which may be taken over from the Trust.

The Honourable Mr. ROGERS, in agreeing with the Honourable Colonel Kennedy and the Honourable the Advocate-General, said—The Honorable the Advocate-General has observed that the cause of the necessity for a compromise is the impecuniosity of the Port Trust as well as of the Municipality, and after what has now fallen from some honourable members, I think we have a fair specimen of what the Municipality would proceed to do if it got full power over the property of the Port Trust. It appears from what has fallen from the Honourable Colonel Kennedy that two or three days ago Mr. Pedder agreed to accept Rs. 50,000 as a fair compromise, and now he has suddenly raised his figure to double that amount.

The Honourable Colonel KENNEDY—I only said that I understood Mr. Pedder to agree that this was a fair compromise.

The Honourable Mr. NARAYAN VASUDEVJEE—Mr. Pedder told me yesterday that he agreed to no compromise whatever.

His Excellency the PRESIDENT—This is an extremely complicated matter, and I think Mr. Pedder might very easily reconsider what he said on Friday.

The Honourable Colonel KENNEDY—That is the reason why I desired to make the explanation to the Honourable Mr. Rogers. I did not say that Mr. Pedder absolutely and definitely said he accepted the compromise ; but he told me that if he did not settle the thing in his mind before Monday he would let me know. This he said before witnesses, and up to this hour he has not given me personally any intimation of having changed his opinion.

Mr. Rogers is, generally, in favour of the amendment.

The Honourable Mr. ROGERS—At all events there is no reason whatever why the Port Trust and the Municipality should not come to a compromise. The Honourable Mr. Narayan suggested that in consequence of troops being allowed to land at Carnac Bunder it would involve the Municipality in an expense of about four lakhs of rupees, since the night-soil depôt would have to be removed ; but he must be aware that the landing of troops can have nothing to do with this state of things, because the removal of the night-soil depôt has been already desired on the ground that it is a public nuisance.

Mr. Munguldass opposes the amendment.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—I should have been inclined to accept the compromise, if it had not been clogged with the condition that the Municipality must for that sum repair and light the roads. Rs. 50,000 will have to be spent in observing that condition alone, and I feel compelled to oppose the amendment.

Mr. Ravenscroft approves of it.

The Honourable Mr. RAVENSCROFT made a few remarks, in which he was understood to approve of the amendment.

Sir Jamsetjee can see neither any principle of justice nor motive of expediency in the compromise of the mover of the Bill, and therefore opposes it.

The Honourable Sir JAMSETJEE JEJEEBHOY said—I am glad to note that the Honourable Colonel Kennedy has, upon further consideration, seen fit to withdraw the motion for the exemption of the Port Trust properties from municipal taxation, of which he had given notice. I could see neither any principle of justice, nor any motive of expediency, in the proposal to exempt the Port Trust from its share of municipal taxation. I think it is all very well to advocate the exemption on the ground that it favours trade and therefore conduces to the good of the community, and that it is not strictly a tax, for the general public in one shape pays that which it receives in another. This argument would cut both ways. If the general public is the payer, as well as the recipient of the tax, then nobody is injured. Why then resist the imposition of the tax? So far as I can see, the framers of this Act have taken the Calcutta Port Trust Act as their model; but the honourable mover of this Bill has been advising a departure from that model, in asking us to exempt the Trust properties from municipal rates. No such immunity as was at first claimed by the Honourable Colonel Kennedy for the Port Trust here has been extended to the Port Trust at Calcutta; nor yet has any such concession been made there as he now proposes in his amendment. The Administration Report of the Commissioners of the Trust there clearly shows that they contribute their quota towards the municipal expenditure of that city, like other owners of private property. The Municipal Commissioner is under the obligation of treating the Trustees like other owners of property here, and if the Colaba or Frere Land Company have to pay municipal rates, why should the Trustees, in whom the Port Trust is to be vested, not be liable according to the rateable value of *their* property? We make these companies, and numbers of others, contribute all municipal rates, although the roads on their estates are neither lighted nor looked after by the Municipality. The bulk of the property now to be vested in Trustees used to pay all municipal rates according to the assessed valuation, when in the hands of the Elphinstone Company, and the honourable mover of this amendment has not shown any sufficient reason why the Trustees should not continue to pay the rates as heretofore. Does the right to the concession now proposed arise from the fact that the property temporarily passed into the hands of Government from the Elphinstone Company? The present amendment makes it compulsory upon the Municipality to undertake and perform certain services, as an indispensable condition of their recovering the taxes from the Port Trust property. This argument, which may be well characterized as proceeding on the principle of payment by results, is very plausible indeed; but if it were once admitted, the municipal revenue would fall by at least fifty per cent. The principle involved in the levying of taxes upon districts not served by the Municipality with lights, road repair, and the like conveniences and comforts, was discussed recently during the progress of the Municipal Bill through this Council; and the sense of the Council has decided that there is no injustice in making those districts contribute. With what justice then can we tax the poor population of these districts, if we deal upon a different principle with the Port Trust? I would submit, for His Excellency's consideration, that sufficient grounds have not been shown to us to depart from the practice which obtains at Calcutta. We are asked by this amendment—first, to make up a lump sum payable by the Port Trust to the Municipality, and that sum again is less than the proper amount.

We are asked next to recognize the principle of specific service for the general taxes, and to make such service compulsory upon the Municipality. We are asked to fix an amount which shall be irrespective of the rise or fall in the assessable value of the present properties ; but the amount we are asked to fix is to cover any other or further properties which the Trustees may acquire, as they are authorized to do by this Bill. We are, indeed, asked to make such acquired properties free from the rates which they would be paying before their acquisition by the Trustees—thus causing additional tax to the Municipality.

His Excellency the PRESIDENT—During the Honourable Mr. Narayan's observations, one point which occurred to me was this. The compromise now proposed is defended, as I understand the arguments, almost entirely upon the one point, that the Trust would be insolvent, if it were made to pay more than Rs. 50,000. That, in short, if Mr. Pedder's sum were adhered to, the whole arrangements proposed by this Bill would be stopped. Taking that to be the correct view of the case, is it desirable, looking to the fact that the Elphinstone estate may improve greatly within a few years, that this sum of Rs. 50,000 should stand as a fixed sum for all time, without any limitation whatever ? I doubt whether it is right that, no matter how the Port Trust may be improving, the sum to be received as assessment by the Municipality should be fixed for ever.

The President considers that the proposed compromise should not be made an absolute one for all time, and thinks a period should be fixed during which the compromise should last.

The Honourable Colonel KENNEDY—This point was considered in Committee; but Mr. Pedder himself was against the insertion of a limitation clause which would make the whole Bill inoperative.

The Honourable Mr. RAVENSCROFT thought that if the Trust became richer it would be competent for Government to step in, and alter the terms with the Municipality.

His Excellency the PRESIDENT—Of course it is always open to this Council to amend any Bill, but I think we must look at a Bill as it stands, and (as this amendment presents itself to me) we must look at the proposed compromise as something which, if agreed to, will stand for all time as much as the rest of the Bill will.

The Honourable Mr. NARAYAN VASUDEVJEE —His Excellency has stated one of my objections to this amendment. I have heard that the Government of India have offered to advance to the Trust more than a million of money for the construction of docks, and if this loan is accepted, and the docks completed, the Trustees may find it to their advantage to acquire property in the neighbourhood of the docks, and though that property may consequently increase in value the Municipality will not gain by it.

The Honourable the ADVOCATE-GENERAL—But, as I understand the amendment, it only refers to property vested in the Trustees under Section 8, and not to property which may afterwards be acquired.

The Honourable Colonel KENNEDY—The argument as to the increased value of property, in consequence of the construction of docks, is met, I think, by the fact that if the Trustees sell any property, that property would at once cease to be the property of the Trust and would come under municipal taxation.

The Honourable the ADVOCATE-GENERAL—Supposing we give the Port Trust ten years of peace and quietness, will the Council have any objection to agree that Rs. 50,000 shall be paid to the Municipality for a period of ten years ?

The Honourable Colonel KENNEDY—I have no objections—in fact, that was one of my propositions to Mr. Pedder.

The Honourable Mr. BYTHELL—I have always heard it put forward as a reason for acquiring the Elphinstone property, that it would enable the Trustees to sell land in order to enable than to decrease their debt, while now we hear that there is a danger of the Trustees buying up more land. I shall vote for the amendment.

The Honourable Colonel KENNEDY—There is also a question of equity involved. Of the full amount of Rs. 70,000, a large portion would be in consequence of additional revenue raised from the Government bunders, such as the Custom House Bunder which never yet has borne municipal taxation of any description. Yet these bunders derive no benefit whatever from the Municipality.

The Honourable Mr. BYTHELL—In the Council discussions upon the Municipal Bill I opposed the principle of Government buildings being exempted from taxation, and I pointed out that at the present time the Home Government were pledged to bring in a Bill making all Government properties, including even barracks, subject to municipal rates. The Council nevertheless agreed to exempt Government properties, and I would now ask upon what principle we are to exempt all other Government property, and yet tax to the full extent this Elphinstone estate, which really is also Government property, and is merely to be transferred to the Trustees for purposes of management ? A contribution is to be made by the local Government to the Municipality regarding all other Government lands, and I would ask why the Port Trust property is to be made an exception; is to be rated as private property instead of being subject to the same arrangement as other Government property in Bombay ? If this suggestion of the Honourable Mr. Narayan's is carried out, the port dues will have to be raised, and then we shall possibly see trade burdened to such an extent that our sea-trade will be driven away. I would once more remind some honourable members of this Council that the interests of the mercantile community and those of the Port Trust are not antagonistic, because if trade falls off, property must decrease in value at the same time. I think all ought to accept this compromise, as being a liberal arrangement, instead of putting the Municipality into an antagonistic position with the Port Trust at the very outset of the Trust's career.

Mr. Bythell points out that in the Municipal Act (Bombay) No. III. of 1872, Government lands are exempted from municipal taxation, and as he thinks that the Trust estate should not be made an exception to this law, he supports Colonel Kennedy's motion.

His Excellency the PRESIDENT—I think the Council will agree to let the Rs. 50,000 assessment apply for ten years to the property now held by the Trustees, and, of course, if they acquire additional property within that time, it will be understood that the full municipal rates must be paid upon that property so acquired.

The Honourable the ADVOCATE-GENERAL—My impression is that it would be better to make this Rs. 50,000 apply to property, whether now vested in or afterwards acquired by them, for a period of ten years. If we do not agree to this, troublesome questions may be raised between the Municipality and the Port Trust, which I for one would wish to see stopped, peremptorily, for at least ten years.

The Honourable Colonel KENNEDY agreed with the Honourable the Advocate-General

The Honourable Mr. BYTHELL asked whether there was any power given to the Trustees to compel the Municipal Commissioner to accept streets made on the Trust estate as public thoroughfares.

The Honourable the ADVOCATE-GENERAL replied that Government was to decide in case of dispute.

After some further discussion, His Excellency the PRESIDENT moved that the amendment might be carried in the following shape:—

"And inasmuch as certain parts of the lands and property vested in the Trustees under the preceding section of this Act have heretofore been liable to be rated and taxed for the purposes of the Municipality of Bombay, there shall, for the term of ten years, from and after the taking effect of this Act, be payable to the said Municipality of Bombay out of the revenues of the Trustees of the port of Bombay, the annual sum of Rs. 50,000 in lieu of all municipal rates and taxes, except rates and taxes for the supply of water and halalcore service; and in consideration of such annual payment when and as soon as any roads and thoroughfares have been duly levelled, paved, metalled, flagged, channelled, and sewered by the Trustees, the Municipal Commissioner shall, on being satisfied of the same, declare such road or thoroughfare to be a public thoroughfare, and thereupon the said Municipality shall maintain and keep in repair and light and cleanse all such roads and thoroughfares, and shall also on requisition by the Trustees maintain and keep in repair and light and cleanse the roadway of any wharf, dock, or pier vested in the Trustees under this Act, in such and the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares and places were vested in the Municipality of Bombay. Any dispute between the Municipal Commissioner and the said Trustees as to any road being in a fit state according to the provisions of the Bombay Municipal Act in force for the time being to be declared a public street, shall be determined by the Government, whose decision shall be final in the matter."

The Honourable Mr. FORBES—I think that under this amended section we have departed from what appeared to be the original intention of coming to a compromise between the Municipality and the Port Trust, as it now assumes the form merely of a concession on the part of the Municipality. They not only forego the revenue derivable from taxation, but they also incur the liability of keeping up roads in a better state than those already kept in many parts of Bombay, and as the greater part of these roads will be entirely for the benefit of the Trust, and not for the benefit of the general community, I think the bargain is rather a hard one for the Municipality. With regard to thoroughfares leading to the estate, it would be quite fair that the ordinary rate-payers, who have the opportunity of using them as frequently as they please, should contribute towards their lighting and repairing; but a wide distinction ought to be drawn between what may be called wharf and dock roads and thoroughfares leading to the bunders. As the amendment now stands the compromise would not be fair.

The Honourable the ADVOCATE-GENERAL—It does not seem to me that the amendment destroys the fairness of the compromise. Certain duties are to be performed by the Trustees, and in return certain concessions are to be made by the Municipality. The Trustees will increase the taxable area for the Municipality, and in consideration of this the Municipality simply compound for the rates which under ordinary circumstances they would be entitled to claim from the Trust.

The Honourable Colonel KENNEDY said it would be impracticable to draw a line defining where public roads should cease or begin to be taxed, and he dissented from the opinions expressed by the Honourable Mr. Forbes.

The Honourable Mr. BYTHELL reminded honourable members that during the discussions on the Municipal Bill the Executive Government promised that they would make a contribution to the Municipality in lieu of those rates on Government properties, which the Municipality considered they were entitled to recover; and he now felt sure that the Executive Government would also make a contribution on behalf of bunders, as well as properties which were more directly considered to be Government properties. He also thought it ought to be borne in mind that the Port Trust would be a considerable source of revenue to the impecunious Municipality.

A short discussion took place, after which the amendment was put to the vote, and carried by a majority of two :—

Ayes—6.	*Noes*—4.
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable A. ROGERS.	The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable the ADVOCATE-GENERAL.	The Honourable J. A. FORBES.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	
The Honourable J. K. BYTHELL.	

The Honourable the ADVOCATE-GENERAL, referring to Section 10, considered that no business should be done at any meeting unless a quorum be present.

An alteration to this effect was agreed to.

At the beginning of Section 13 the following words were inserted—"All questions which may come before the Trustees for decision shall be decided by a majority of votes." The word "taken" in line 1 was omitted, and the word "demanded" inserted in lieu thereof; and the word "taken" in line 4 was omitted, and the word "recorded" substituted. The words "conveniently may be," in line 4 of section 14, were omitted, and the words "the same have been signed by the President" inserted.

The Honourable Mr. BYTHELL said that he had given notice of an amendment to the following effect :—"That after the word 'except,' in the fourteenth line of Section 19, the following words be inserted,—'with the consent of the local Government and.'" He had been aware that many of the members of the Council were of opinion that it would be inadvisable to change this section, and he called a meeting of the merchants of Bombay a few days ago for the purpose of asking their opinion on the subject. A vote was taken, and he found that the majority of the merchants were in favour of no alteration being made in the section. Personally, he was still in favour of the alteration which he had given notice of, but in deference to the opinion expressed by the majority of the mercantile interest, he begged to withdraw it. The words "majority of the Trustees" in line 7 of Section 19 were omitted, and the words "Trustees at a meeting" inserted.

The Honourable the ADVOCATE-GENERAL moved that the words "Chairman of the Trustees" in line 14 of Section 24 be omitted, and the words "Trustees at a Meeting" inserted. He proposed this amendment, because it did not seem to him desirable to give so much patronage to the Chairman of the Trustees, and so to render him, by his power of appointing all the subordinate officers of the Trust, in a certain sense independent of his colleagues. Such a power ought to lie only with the general body of Trustees.

The Advocate-General objects to the powers of patronage proposed to be voted in the Chairman.

The Honourable Colonel KENNEDY—One of the leading principles of this Bill is to place all executive power and responsibility in the Chairman, and I think that if he were to be liable to be over-ruled by the Trustees in minor matters like this, he would not be able to exercise his functions rightly, so as to carry on the business of the Trust in a satisfactory manner. I think that the Chairman of this Trust should be like the Municipal Commissioner, and appoint those whom he considered most fit for the petty appointments. The differences of opinion that would prevail among a body of Trustees when the subject of a petty appointment came before them would be very great, and to avoid such a contingency I shall vote against this amendment.

The Honourable Mr. RAVENSCROFT concurred with the Honourable Colonel Kennedy.

The Honourable Mr. ROGERS supported the Honourable Colonel Kennedy by pointing out that he was in this matter merely following the analogy of all Government departments, in which the heads were always made responsible for their subordinates, so that they would naturally choose the best men they could to assist them.

The Honourable Mr. BYTHELL objected to the Port Trust being considered as a Government department. The object of the present Bill, he believed, was to place the power now in the hands of the Government in the power of a Committee, such as this Trust would be. The full Board or Trust would, he considered, be the true head of the department, and in this view he would support the Honourable the Advocate-General.

The Honourable the ADVOCATE-GENERAL admitted that there were difficulties on both sides of the question, but thought there were fewer on the side which his amendment represented.

The Council divided on the Honourable the Advocate-General's amendment :—

Ayes—6.	*Noes*—4.
The Honourable the ADVOCATE-GENERAL.	His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable SIR JAMSETJEE JEJEEBHOY.	The Honourable COLONEL M. K. KENNEDY.
The Honourable J. A. FORBES.	The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.	
The Honourable J. K. BYTHELL.	

—*Carried.*

The Honourable the ADVOCATE-GENERAL proposed that the following clause be inserted after Clause 2 in Section 29 :—

"(3.) Light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the Port of Bombay and the approaches thereto."

The Honourable Colonel KENNEDY approved of the alteration, which was agreed to.

The Honourable the ADVOCATE-GENERAL proposed that the following additional section be inserted after Section 29 :—

"XXX. The Trustees shall provide such number of public landing-places as shall, in the opinion of the local Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge."

Free public landing-places.

He remarked that a similar section existed in the Calcutta Act, which the honourable mover had used generally as a model in constructing the present Bill. He held that it would be a very undesirable state of matters if the Trustees, taking advantage of the absence of definite provisions in the Bill, should close against the public any of the landing-places on their property, which had heretofore been freely used, and it was to prevent this that he now begged to propose the above amendment.

The Honourable Mr. BYTHELL expressed his opinion that the Port Trustees were absolute masters of the property vested in them.

The Honourable Colonel KENNEDY objected to the amendment as one which was uncalled for. All the Port Trust bunders were at present free, and the Trustees had no power to levy tolls upon any person upon any of them.

His Excellency the PRESIDENT pointed out that the Trust would be a body that would, in all probability, be extremely anxious to get money, and unless the Honourable the Advocate-General's purely precautionary measures were agreed to, the Trustees, whether rightly or wrongly, might decide that a tax upon passengers to and from the bunders would be a good means of increasing their receipts.

The Honourable Colonel KENNEDY—I do not know that closing their bunders to passengers could increase their receipts, because passengers must land somewhere. The reason why this amendment is in the Calcutta Act, is that certain landing-places or bathing-ghauts were appropriated for works which Government or the Harbour Commissioners were then carrying on, and it was found necessary, of course, that some accommodation should be provided in lieu of what had been taken away.

The Honourable the ADVOCATE-GENERAL—The Trustees by the present Bill will acquire a number of ancient free landing-places which formerly used to exist on that part of the foreshore, which is now being handed over to the Trustees.

After some further discussion, the Honourable the ADVOCATE-GENERAL's motion was agreed to.

His Excellency the PRESIDENT—At the last meeting of Council, it was decided to send letters to the Government of India to ascertain their views with respect to the Chamber of Commerce's section, which was substituted for the 32nd section, which stood originally in the Bill when it was introduced by the honourable mover. I have had no official answer from the Government of India, but I have heard from the Governor-General himself, and from what His Excellency says, I am inclined to think that the Government of India do not like the alteration. His

The President thinks it would be for the benefit of the Municipality of Bombay if land were allowed to be acquired from the Port Trust for public purposes at the cost of it to the Trust, instead of at an assessed value to be made at the time of the acquisition.

Excellency even suggested the question whether, if land were to be acquired by Government from the Port Trust for the erection of a Custom House, that land should not be given up on the mere payment of the original purchase value, instead of by an assessment of value, according to any law which might be in force when the land should be acquired. It has occurred to me also that, looking to the state of the drainage of Bombay and various other things, it might very easily be arranged, that if the Municipality required any land from the Trustees for sanitary purposes, it should be allowed to get it upon payment of the amount which it cost the Trust. This is a large and serious question as affecting Bombay, and I may say that I do not think this Port Trust should be allowed to traffic and trade with the land which it got upon such easy terms.

The Honourable Mr. BYTHELL—That does not include the question whether lands that have not been carried to the debit of the Trust should be treated in the manner suggested. Certain properties have been given to the Trust by the Government of India in mitigation of the debt, and as the section originally stood, Government might have taken back these properties, or a portion of them, without giving anything in return. If Government, when resuming possession of any of the property that has been thus given, would cancel an amount of debt equivalent to the cost of such property, that, I think, would be a fair and reasonable course. As I have already said, the section would have empowered the Government of India to take possession without cancelling any debt; and such an arrangement would have been unfair in the extreme; for the different properties, the cost of which is not placed as a debt against the Trust, are really being given in return for the Port having provided a railway station at Waree Bunder for Imperial, not local, purposes.

The Honourable Colonel KENNEDY agreed that it would place the Trust in a very awkward position, if revenue-producing property were resumed by the Government of India without an equivalent being given for it.

The Honourable Mr. BYTHELL—Government might wish to resume the whole of the ground between Grant's Buildings and Apollo Bunder without giving an equivalent, and of course the result of that would be that the Trustees, having less property and the same interest to pay, would be compelled to raise the bunder fees.

The Honourable the ADVOCATE-GENERAL—I think it is always better to adhere to general law than make particular exceptions, and therefore, as there is a law under which land may be acquired for public purposes, I think it is better to apply that law in the case of land acquired from the Port Trust. If land is at any time wanted from the Trustees, it ought to be paid for at the fair market value for the time being.

The Honourable Mr. BYTHELL repeated that it would be a serious thing for the trade of Bombay if, while the Government of India demanded payment of a certain yearly interest, the property by which that interest could be realized were to be taken away, without an equivalent being granted in return. In that case, of course, the general trade would have to make up the deficiency.

The Honourable Colonel KENNEDY—My belief is that the Government of India would never resume land without giving an equivalent.

The Honourable Mr. BYTHELL—The action taken by the present Government would justify the honourable member in that opinion; but five years hence another Government might entertain very different ideas on the subject.

The Council adhere to their decision to allow land to be acquired from the Trust for public purposes only at an assessment founded upon the value of property at the time of such acquisition.

After some further discussion, the matter dropped.

In line 11 of Section 50 "thereafter" was substituted for "also."

The Honourable the ADVOCATE-GENERAL—I propose an alteration in Section 52, which appears to me to be needed. The local Government may approve of the Trustees' estimate or "return the same, with their remarks thereupon." It will give the section a more practical turn if, for "their remarks thereupon," the words—"such modifications or alterations or remarks as may seem proper" were substituted, and after "such" in the 11th line "modifications or alterations or" inserted.

The local Government to modify or alter the estimates of the Trustees.

The Honourable Colonel KENNEDY remarked that this would give the local Government considerable labour.

The Honourable the ADVOCATE-GENERAL replied that it would give the local Government just as much trouble to make remarks that could be of any value to the Trustees.

The alterations were agreed to.

His Excellency the PRESIDENT—In connection with the payment of the debts, I think there should be a section inserted in the Bill to the effect, that any action which may be brought against Government in connection with any acts hitherto done by Government shall lie not against Government, but against the Port Trustees.

The Trustees to take over all the liabilities connected with the estate.

The Honourable the ADVOCATE-GENERAL expressed his opinion that in taking over the estate, the Port Trustees would also be responsible for all liabilities in connection with the estate. That was provided for by Section 8.

The Honourable the ADVOCATE-GENERAL wished to know, in reference to the 54th section, whether it was intended that the Trustees should not be allowed to spend, even in a case of pressing emergency, any greater sum than Rs. 5,000, without the consent of the local Government. He proposed to omit the words "not so approved" in the eighth line.

The Honourable Colonel KENNEDY—If a pressing emergency arises that will require Rs. 5,000 to be spent, a pressing emergency may arise which will require Rs. 5,050 to be spent.

The Honourable the ADVOCATE-GENERAL—If liberty to spend more than Rs. 5,000 is wanted, Government can be reached by telegraph in a few seconds. He had, however, no objection to full discretion being left to the Trustees. He had only proposed his amendment, in order to ascertain clearly the understanding of the Council on the subject.

After some discussion the section was allowed to stand without alteration.

Between "every" and "neglect," in line 26, section 55, "such" was inserted. In line 10 of section 56 "bunder" was struck out; and in line 11 "docks" was substituted for "or hard." In line 8 of section 57 "consolidated" was inserted before "customs."

The Honourable Colonel KENNEDY said that as it was necessary to provide specially for the case of tolls upon troops landing or embarking at Bombay, he begged to move that the following section be added after section 57 :—

A special toll for troops landing or embarking at Bombay.

"LVIII. On all troops, including their families, landing or embarking at Bombay, a toll at the rate of one rupee per head shall be payable by Government to the Trustees."

Toll on troops.

This section was agreed to.

The Honourable the ADVOCATE-GENERAL said that with native regiments there were generally a number of camp followers, and he desired to know if these were to be reckoned as "troops."

The Honourable Colonel KENNEDY replied in the affirmative, if they were borne on the embarkation roll.

The Honourable the ADVOCATE-GENERAL then proposed a long series of verbal amendments.

In section 58 "rents" was inserted between "rates" and "and" in line 7 ; in line 28 "so" was struck out, and "for the payment of such interest" were inserted after "insufficient"; in lines 33 and 38 "rents" was inserted between "rates" and "and."

In line 7, section 59, "charge", was altered to "increase"; in line 8 "rents" was inserted before "rates"; in line 11 "charge" was altered to "increase," and "rents" was inserted before "rates."

In section 60 "and rents" was inserted after "rates" in line 3; in lines 8 and 9 "charges" was inserted after "tolls," and "rents" was inserted after "rates." In line 11 "charges" was inserted after "tolls"; in line 12 "rents" was inserted before "and"; in line 16 "charges" was inserted before "rates," and "rents" before "and"; in line 24 "for India" was inserted after "State."

In line 6 of section 6 "quay, stage, jetty" were struck out, and "docks" substituted; in line 19 "officer of" were struck out, and "authority of the Presidency" inserted after "Customs."

In section 63 "rents" was inserted before "dues."

In line 10, section 64, "rents, charges" were inserted after "rates"; in line 14 "rents, rates, dues" were inserted after "charges."

In line 6, section 65, "bye-laws" was substituted for "orders."

In lines 3 and 4 of section 67 "quays, jetties" were struck out, and "docks" substituted; in line 11 "Police for" were inserted after "magistrate"; in line 31 "last mentioned" was inserted after "such."

In line 6, section 68, the words "quay, stage, jetty" were omitted, and "docks" substituted; in line 8 "and shipping" were inserted after "landing"; in lines 9 and 10, "act" was substituted for "enactment"; in line 13 the words "as a ware-house" were inserted after "Act"; in line 17 "quay, stage, jetty" were omitted, and "docks" substituted.

In lines 2 and 3 of section 69 the words "quay, stage, jetty, or pier" were omitted, and "docks, pier, or ware-house" substituted.

In lines 6 and 7 of section 70 the words "quay, stage, jetty" were omitted, and "docks" substituted.

In lines 4 and 5 of section 72 the words "Governor-General of India in Council" were inserted instead of "Legislative Council of India"; and in line 8 "unless and until other regulations shall be made by the Trustees under section 81 of this Act" were inserted after "Trustees."

In line 15, section 73, "said" was omitted.

In line 7 of section 76 the words "Governor-General of India in Council" were substituted for "Legislative Council of India."

In line 8, section 77, "therein" was omitted, and these words substituted—"or lying therein or using the said port."

In lines 32, 33, 38, 46, 47, 55, and 73 of section 81, the words "river or channel" were omitted; in line 39 "jetties, landing-places" were omitted; and in line 40 "quays, docks" were omitted.

In line 82 "some police" was omitted, and "a" substituted; in line 9 "Police for the city of" were inserted before "Bombay." To the end of the section these words were inserted—"All fines and penalties levied or payable under this Act or any bye-law or port rule made in pursuance thereof, shall be paid to the Trustees, and shall be applied by them to the purposes mentioned in Section 46 of this Act."

Fines and penalties to be payable to the Trustees, by whom they shall be applied either to the payment of salaries, the payment of interest, or the maintenance of the Trust property, &c.

In line 7 of section 83 "quays, jetties, sheds" were struck out, and "docks, piers," substituted; in line 20, "quays, jetties, stages" were omitted and "docks" substituted.

In line 8 of section 87 "quays and jetties" were omitted and "docks and piers" substituted.

In the 14th and 20th lines of section 91 "dues" was substituted for "issues."

In line 29 of section 93 the words "after the publication of such order" were inserted between "time" and "may"; in line 34 "rents" was inserted between "dues" and "rates"; and in line 44, the words "said local Government" were substituted for "him."

In line 5, section 94, the words "or of the Municipal Corporation of the City of Bombay to collect town duties" were inserted after "duties."

All these amendments were agreed to.

The Honourable Mr. ROGERS said that he wished a section introduced in the Bill, so as to protect the rights of servants at present in the Harbour Trust. He should like something like these words used—"Provided nothing in this Act shall be held to affect the right of persons now under the Conservator of the Port, as regards their rights to pensions under the existing practice."

The rights, as regards pensions, of servants of the Harbour Trust.

The Honourable the ADVOCATE-GENERAL remarked that if these servants had acquired a right to a pension from Government, their right would remain intact, so long as they paid to Government the usual 20 per cent.

The Hon ourable Mr. RAVENSCROFT thought that the best thing for these officers to do was to apply to Government to be allowed to remain on the pension list on the payment of the ordinary 20 per cent. upon salaries.

The feeling of the Council seeming to be in favour of the Honourable Mr. Ravenscroft's proposition, the Honourable Mr. ROGERS withdrew his amendment.

On the motion of the Honourable Colonel KENNEDY, " February 5, 1873," was added to the third paragraph of Schedule B. In Schedule C. the 9th paragraph, relating to foreshore, was struck out, as the honourable mover of the Bill considered its presence in the Bill unnecessary. " The light-house of Kennery and the light-house at Colaba " were inserted in Schedule D.

In Schedule F. " given under our corporate seal this day of " was inserted before the line relating to the " Signatures of the Chairman and two Trustees."

His Excellency the President then adjourned the Council.

J. NUGENT,

Acting Under-Secretary to Government.

Bombay Castle, 11*th February* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Thursday, the 13th February 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *presiding.*
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable J. A. FORBES.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.

Remarks on the question of pensioning present servants of the Harbour Trust by the Port Trust, made by the President before the motion for the third reading of the Port Trust Bill was put to the Council.

Before the motion for the third reading of the Bombay Port Trust Bill was put to the Council, His Excellency the PRESIDENT observed as follows:—The Honourable Mr. Rogers withdrew his motion the other day with regard to the Trustees pensioning servants of the Harbour Board who are at present entitled, or about to become entitled, to pensions; but I did not think that that course was quite a fair one to these officers, who ought, I think, to have their interests protected in some way by this Bill. I have asked the Honourable Colonel Kennedy to give me a return of the officers that I allude to, and I find the more important of them to be the Master Attendant, who gets Rs. 1,400 a month; an assistant, who gets Rs. 800; and another assistant, or Harbour Master, who gets Rs. 550. It seems to me that it would fall extremely hard upon such officers as these are if they were to be thrown over, so far as their interests are concerned, whenever this Bill comes into operation, because at present as the Bill stands they have absolutely no protection whatever. Possibly we might continue the Master Attendant as the Conservator of the Port, that being one of the appointments vested in Government, but it would be difficult to dispose of the others, supposing the Trustees did not wish to take them over, but choose to employ other officers.

The Honourable Mr. ROGERS asked whether it would do to provide in this Bill for the Trustees paying pensions out of their revenue?

His Excellency the PRESIDENT—I should prefer to have it expressed in the Bill that there shall be no such thing as pensions, but that the Trustees would have to increase the pay of the officers in question by one-fifth. Government always takes one-fifth of their salaries from servants whom they mean to pension, and in this case these officers could hand over the extra one-fifth to Government in consideration of their names being allowed to remain on the pension list.

The Honourable Colonel KENNEDY thought that Government would have the power to regulate the salaries of these officers without binding the Trustees to any particular bargain.

The Honourable Mr. ROGERS—Perhaps, as I have said, we might give the Trustees legal power to apply money on account of pensions, and then leave the details to be settled by Government under the bye-laws referred to in Section 78.

The Honourable Mr. BYTHELL—Regarding the appointments which remain in the hands of Government, Government might make their own arrangements with the officers as to pensions; but with regard to the remainder of the officers, who are to be appointed by the Trustees, I presume the Trustees may pay them what they choose. To give one-fifth extra salaries to certain officers who have been mentioned, would involve an additional outlay by the Trust of about Rs. 8,000 a year. To judge from the statements made here by the honourable mover of the Bill, the calculations of the income of the Trust are very narrow, and I do not think therefore that the Trust will be able to spare this Rs. 8,000 extra.

His Excellency the PRESIDENT—I think it would be fair to stipulate that the Trust should not be permitted to remove any of those persons now holding office under the Executive Government, and that these officers should be given an advance of 20 per cent. upon their present salary.

The Honourable Mr. BYTHELL thought Government ought to pay the pensions, and remarked that as the Government of India had made an exemption in favour of the Municipal Commissioner of Bombay, from whom they did not demand the payment of one-fifth of his salary in respect of pensionary considerations, the Government of India might do the same on behalf of the officers whose case was now under discussion.

The Honourable Colonel KENNEDY said that Government might make such an exemption in favour of the Master Attendant, but nevertheless he thought it would be better to allow the Bill to pass, and to leave the whole subject of pensions to be brought before Government to be by them considered.

His Excellency the Commander-in-Chief concurred.

The Honourable Mr. FORBES wished to know under what regulations did it appear that the position of these officers would be altered when the Port Trust was established. Why should they not still be considered Government officers.

His Excellency the PRESIDENT remarked that the consideration of that question would take the Council back to the question, What is the use of the Trust?

The Honourable Mr. FORBES looked upon the Trustees exactly in the light of managers or stewards upon a Government estate.

After some further discussion, the Council agreed to adopt the Honourable Colonel Kennedy's suggestion and allow the Bill to pass as it stood, on the understanding that the matter might be settled by the Local Government when representations from those concerned should come before them.

The subject of pensions of present officers of the Harbour Board to be left to the decision of the Local Government.

His Excellency the PRESIDENT said that at present there was a sum of money in the Bank—at any rate, in charge of the Harbour and Pilotage Board—which is called the Schooners' Expenses Fund,

The Schooners' Expenses Fund.

amounting to about Rs. 50,000, and upon this amount the Pilots consider they have a claim. He wished to get a clause inserted in the Bill to the effect that nothing in the Act contained should affect these claims.

After some discussion, the Council expressed an opinion that the kind of clause suggested was unnecessary, since nothing in the Act could affect these particular claims.

Colonel Kennedy makes a personal explanation, and then moves the third reading of the Bill.

The Honourable Colonel KENNEDY—Before I move the third reading of this Bill, I have a few words to say upon a personal matter. I very much regret to say that Mr. Pedder has taken exception to a remark which I am reported to have made in this Council at our last sitting. I am reported to have said that the arrangements which I entered into with Mr. Pedder on Friday last, were made before witnesses. I do not remember exactly what I did say; but I rather think I said "in the presence of Mr. Manson." However, be that as it may, all I have to say now is, that nothing could have been further from my thoughts or intentions than to cast any reflection upon Mr. Pedder, for whom, in common with most people, I have great respect. I think I ought to take this opportunity of explaining what really did pass upon the occasion in question. I saw Mr. Pedder on Friday, and we had a long conversation, during which I showed him certain figures having reference to the assessment for municipal purposes which should be made upon the Trust property. These figures went to show that if the whole of the property were rated for municipal taxation, as if it were private property, the amount payable would be Rs. 76,000. Now, that sum corresponds very nearly with the figures given by Mr. Pedder in his memorandum, and therefore, when he completed that memorandum he had arrived very much at the same conclusion which I myself pointed out at the meeting to which I have referred. When he left me upon that occasion he said that he considered the compromise which I proposed, or rather he thought the compromise which I proposed, was a fair one. However, he said he would look into the matter, and that if he saw occasion to alter his mind he would let me know on or before the Monday following. I was therefore very greatly surprised—having received no communication whatever from Mr. Pedder on the Monday,—when I came into this room and found this memorandum of his—a memorandum which is a very elaborate one, bringing out very different results from what I anticipated, and which goes so far as to indicate that a lakh of rupees would be a fairer compromise than Rs. 50,000. That memorandum, which is a printed document, must have taken some time to prepare and some time to consider, and I think that Mr. Pedder, with all deference to him, might have let me known his general conclusions upon Monday, or, at all events, have informed me that he had seen reason to recede from the position which, I thought, he had taken up on Friday, and that he no longer considered the compromise a fair one which I put into my amendment, and which compromise I had submitted to Mr. Pedder. I think it right to make that explanation, but at the same time I repeat that I regret that anything I have said should have given offence to Mr. Pedder. Nothing could have been further from my views than to offend him. Now, Sir, I beg to move that this Bill be read a third time.

Mr. Forbes expresses alarm at prospective liabilities of the Trust, and wishes the third reading of the Bill

The Honourable Mr. FORBES—If the Hon'ble Colonel Kennedy has nothing further to say, I wish to move an amendment on his motion, to the effect that the third reading of this Bill be postponed for a month. I think that, as the Bill stands, it would be rather

to be postponed. He objects particularly to power being left in the Bill by which the Trustees could increase port dues and charges.

unfortunate if it were passed, because it involves some liabilities on the Port Trust, which I do not think the Government of India ever intended it should bear. These liabilities might upon further consideration be reduced but, at all events, they ought to be fully considered by the public before they are agreed to. I confess that a few days ago I was rather disposed to vote in favour of the Bill being passed, but upon reconsideration I now think that a month at least should elapse before we send it up to the Government of India. When the Bill was first talked of, some few years ago, the mercantile community, for the most part, if not universally, looked forward to its becoming law with very considerable anxiety, and I believe they had very good grounds for entertaining some alarm with regard to the measure. In the first place it appeared that the Trust was likely to be started with a very large burden of debt, the interest upon which would be out of all proportion to the capabilities of its income, while the time within which the capital should be paid was unreasonable. Moreover, the Trust appeared likely to be pledged, to a certain extent, to proceed with some very great and expensive works— the necessity for which was partly acknowledged and felt by the mercantile community of Bombay, although it was certainly considered that they were to some extent intended to meet requirements which, I think, were far more Imperial than local—such, for instance, as the affording of greater facilities for the receiving of the Mails for the whole of India, the landing of Government stores, and the fitting out of military expeditions, when these happened to be necessary. The dock works which it was contemplated the Port Trust should undertake, would to a great extent have met the requirements which I have mentioned, and which, I think, the Council will agree are not of such a nature as should entitle them to be charged to the town. Besides this, the mercantile community felt that previous to this Bill they had been saddled with the bunder fees, which amounted to a levy of £25,000 upon the trade of the port, without affording any facilities in return for that large sum. Then again, the mercantile community felt that the amount of compensation which they were likely to receive from the Port Trust was extremely doubtful, and further it was felt, till recently that the rate-payers of Bombay would also suffer by the introduction of this Bill, the loss of a large amount of rent which had been contributed to the Municipality of Bombay. The undertaking of these great harbour works has been disposed of for further consideration, and I think that it is a matter upon which all who are interested in the welfare of this harbour, or rather of the welfare of the trade of Bombay, will feel considerable satisfaction. Again, the mercantile community have now the prospect of having a very fair amount of representation in the Trust; and as to the arrangement which has been decided upon by the Council, with regard to the payment to the Municipality, although it does not come up to what I should wish, or to what the Municipal Commissioner appears to consider fair— being in fact only one-half of what he considers to be justly due to the Municipality—still it is better than what was at one time taken for granted should be paid to the Municipality and as it is a compromise which will last only for ten years, I think it is on the whole satisfactory, so that I would not be disposed to vote against this Bill on the ground that the contribution to the Municipality is rather small. But there are one or two other points which cannot be regarded with the same satisfaction. One is the matter which was incidentally mentioned at the last meeting—namely, that there is a very heavy claim existing at present against Government, as the present owner of the Elphinstone property, and about which it was apparently the intention of the honourable mover of this Bill to say

mothing, and actually to pass the liability to the future Port Trust without in any way calling the attention of this Council to the serious responsibility that the Trustees would have to undertake: the claim is not even mentiond in the schedules which have been published. I feel for my own part—and of course I may be mistaken in saying so—that no information whatever has been afforded to the Council with regard to this Coorla claim. I have been unable to find such information for myself, but if it is true that the heavy claim that is publicly stated to exist is impending on the future Trust, I do not think the Council has been fairly dealt with. We are asked to pass this Bill on the understanding that the Port Trust should commence with a balance of somewhere about Rs. 38,000 in its favour, and yet all the time there was a liability hanging over the Trust of 11 lakhs of rupees! This may be called an absurd figure, but even though it were to turn out less the Trustees' position might be seriously damaged, and it certainly is not a matter which should be passed over without any information being given to us upon the subject, or without any guarantee that that claim, or even one-tenth of it, will not have to be borne by this new body. If the claim should hold good, it will upset all the calculations regarding the means supposed to be at the disposal of the Trust—in fact, the Trust must become useless—and I should hope, therefore, that if the third reading of this Bill were postponed for a month this claim might be settled, or the honourable mover of the Bill might be able to obtain from the Government of India some expression of their opinion as to how they would deal with this liability, supposing the claim to which I allude were proved to be tenable. Another point, which calls for consideration before the Bill is passed, is the wording of section 58, to which, upon a former occasion, I drew attention. The gist of that section is that the charges which the port of Bombay may be liable to are unlimited. After I have told His Excellency's Council what I have to say upon this point, I think it will hold it to be neither a wise nor desirable thing that the charges upon the trade of Bombay should be liable to any further increase whatever. I have looked at the correspondence which has passed between the Government of India and the Government of Bombay, and I do not think that the Government of India would insist upon any further addition to the present charges; and if neither the Government of India, the Government of Bombay, nor the persons who will probably act as Trustees, are likely to consider such an increase desirable or proper, I do not think that it is desirable to make such an increase possible by retaining this section as it stands. I think that this fact should be prominently kept in view, that whereas the trade between England and India has increased considerably, the trade in the chief article of which that trade is composed has not increased between England and Bombay—in fact, I believe it can be proved that that trade has diminished. I believe that during the last five years the trade in piece-goods between the United Kingdom and India has increased just something less than 60 per cent.; whereas the trade between the United Kingdom and Bombay has been stationary, if it has not diminished. The statistics contained in the Customs Report of Bombay point to a very considerable diminution. I find that the total value of piece-goods imported to Bombay from the United Kingdom and Suez in 1867-68 amounted to about five millions and a quarter of rupees; whereas during the last year for which statistics have been published—that is, 1871-72—the figure stands at three millions and a half as the value of these goods; although I believe that, if the quantity be taken instead of the value, it will appear that there is a slight increase of 3½ per cent. between the imports of 1867 and of 1871. This shows that the trade

in that important article, piece-goods, is, as I have said, stationary, if not falling off. There is, however, a noticeable increase in the trade between Great Britain and Calcutta, grey piece-goods showing an increase between 1867 and 1871 of about 70 per cent. Now I think that these are facts which call for the most serious attention on the part of the Government of Bombay, and before passing a Bill which may make the trade of this port liable to further charges, it may be well to make more inquiry into the causes which are thus affecting the trade of Bombay. For my own part, I cannot help thinking that the charges of this port, as compared with the charges of the ports on the other side of India, together, of course, with the heavier railway charges to which goods imported into Bombay are liable when sent up-country, is producing a most injurious effect upon the trade of this place. I, therefore, think that a few weeks more time to enable us to look into this matter a little further would be most desirable. Then, again, the Council must consider, in connection with the question of charges upon the trade of Bombay, that the population appears to be decreasing. The population in 1849 was about 520,000; in 1864 it had risen to 820,000; and according to the last census it had decreased to 640,000; and at the same rate of diminution we may have to look forward to the time when the population will return to its 1849 figure. There is no doubt that, if the trade and population of Bombay are both diminishing, it would be most injurious to leave any power in this Bill to increase the charges, and I am sure it is a proceeding to which the honourable members of this Council will not hastily lend themselves.

His Excellency the PRESIDENT—Before any member replies to what has fallen from the Honourable Mr. Forbes, I only wish to make an explanation upon one point with regard to those new works for which the Governor-General in Council stated he was prepared to provide money if the proposals were found to be sound and reasonable. I wish is to be understood that, as far as the Governor-General is concerned, the delay which has taken place is in no manner attributable to him. He takes personally a great interest in these works, and the delay is attributable to the local Government, which was induced to stop action on Mr. Ormiston's proposals, in consequence of the prospect which there was of this Port Trust coming speedily into existence. This alone is the reason why no further steps have been taken regarding Mr. Ormiston's proposals.

The Honourable Mr. ROGERS remarked that it had always been urged that the Executive Government were not in a position to understand the requirements of the trade of the port, and in order to arrange for the proper accommodation that was demanded, Government had determined to create this Port Trust, which would be largely composed of gentlemen connected with mercantile interests. Therefore, the sooner the Trust came into existence the better for the settlement of vexed questions. The Honourable Mr. Forbes had objected to section 58, because it seemed to give the Trust power to put very heavy additional burdens upon trade, but the section was merely a provision for the annual payment of interest to the Government of India, and surely that was a burden which the Port Trustees would never seek to throw overboard.

The Honourable Mr. MUNGULDASS said he believed further delay would be injurious, and intimated that he would oppose the Honourable Mr. Forbes' amendment.

The Honourable Colonel KENNEDY—I am glad to say that I gathered from the remarks of the Honourable Mr. Forbes that he really has very few objections to the main provisions of this Bill. He has two objections—one is the Coorla case liabi-

lity, and the other the increase which tolls are liable to under section 58. As regards the Coorla case, the honourable member charges me with having concealed from the Council the fact that the liability which he refers to was impending. My reply to that accusation is, that I was not aware that such a claim was about to be made, and therefore I concealed nothing. It is only lately that we have had to consider the Coorla claim in the present shape, and I have seen, as the honourable member probably has seen, in the public prints that the damages are fixed at the enormous figure referred to. I do not think however, that it is desirable to discuss in this place a suit of this nature and I can only repeat, what I said upon a previous occasion, that we are acting in the matter upon the best advice. However, whatever the claim may be, it will not be the less a liability upon the trade of Bombay. Government took upon itself the liabilities incurred by the Elphinstone Company, with the object of transferring the property, together with its advantages and liabilities, to the Port Trust, and this Council cannot suppose that Government would pick out this particular liability and resolve to meet it itself. Therefore, if the claim be established, or whatever sum may have to be paid, the sum to be paid will fall upon the trade of the port, and that fact will not be affected by the passing of this Bill. As regards the alleged power to increase tolls, there is nothing in this Bill which is different from the powers given under Act V. of 1870, in which, as here, there is no limit to the tolls which may be raised. The section, however, merely gives power to the Trustees to meet the interest upon their debt, and it cannot be unjust, even if extra tolls are demanded, to effect this purpose. The Honourable Mr. Rogers has alluded to the management of the Port Trust, and I concur in what he said. I think no one knows better than myself how inconvenient it is for the officers of a Government department to be concerned in the details of managing such a property as this. I have felt the difficulties of the position very keenly at times, and one of the great reasons why I am anxious to see this Bill passed is that the mercantile community may be enabled to get, so to speak, a finger into its own pie. At this moment, we are undergoing a keen competition with other properties along the foreshore, and the nature of this competition is such that Government cannot properly enter into it, and we require the assistance of some persons who are directly interested in the trade of the port in order to cope with others who are at present exercising all their personal influence with a good deal of force. Besides this, questions of leases and sales of land are constantly arising, which the Trustees would be the best parties to arrange. I think the honourable member would regret to see this Bill withdrawn altogether, since by such a course we should be deprived of the advantage of the service of gentlemen like himself, and I shall strongly oppose any further delay. The Bill has now been before the Council and before the public for a very long time, and neither time nor labor has been spared upon it, and I think that a deal of harm would result from any further postonement.

Mr. Bythell refers to the liberality of the Government of India in the past, and, believing that they will do or permit nothing in the future that will injure the port, opposes the postponement of the third reading of the Bill.

The Honourable Mr. BYTHELL—I also shall vote against the amendment of the Honourable Mr. Forbes, because I, like the speakers who have preceded me, do not see what good would result to the trade of the place from any delay or from this Bill being thrown out. The Government of India throughout the negotiations with the Government of Bombay have shown a very great desire to refrain from doing anything to burden the trade of the port or to injure the

prosperity of the place; and even should it unfortunately be found afterwards that the trade of Bombay decreases, and that the interest on this debt cannot be paid without inflicting burdens which would be injurious to commerce, I think a representation to the Government of India by the Port Trust on the subject, backed by a representation from the Government of Bombay, would be just as effectual, perhaps more effectual, than a representation by the Government of Bombay alone. The Government of India have, I consider, behaved most liberally throughout, and have made reductions in the debt which are almost greater than might have been expected under the circumstances. One of the terms under which the purchase of the Elphinstone property was made and which the Government of Bombay in the first instance accepted without demur, was that all the money spent in the harbour since 1850 should be debited to the Port Trust, and on its being pointed out to the Government of India that should that condition be enforced it would injure the trade of the place, they reduced the debt from three to two millions sterling, and instead of charging interest at the rate of 4½ per cent. or 4⅓ per cent. they agreed to charge only 4 per cent. for ten years. Therefore speaking as a member of the mercantile community—and I believe I may also say on behalf of the majority of that community—I think I may safely say that we ought to accept the financial position, as in the meantime a very fair compromise, and as being perhaps more liberal than we could have expected. I have seen and heard it stated lately that the Council at the present time are proposing to find a railway station for the Imperial Government at the expense of the trade of the port just as if no concessions had been made; whereas the fact is, that although the Government of India did not write off from the debt of the port a sum equivalent to the money which was said to have been spent in building Warree Bunder, they gave valuable properties in return and a large amount of Imperial income which was derived from some of the wharves from storage—not bunder fees—but fees which were levied long before bunder fees were imposed. And as a proof that these concessions are real and not merely nominal ones, we have the statement made the other day by the honourable mover of the Bill that the reclaimed ground between Grant's Buildings and Apollo Bunder is letting for one rupee per square yard.

The Honourable Colonel KENNEDY—One word of explanation. I did not say that the whole of the land was letting at the price, but only a portion of it which is used for the storage of cotton. In point of fact, there are 20,000 yards let.

The Honourable Mr. BYTHELL—Exactly. I understood that. I ought also to state, that the bunder on the new reclamation is being largely used for the landing and also the shipping of cotton, and that the revenue thus derived is not drawn from any other Government bunder, but from private bunders, and therefore is a direct augmentation of the Government income from the port. As to the statement regarding the revenue hitherto paid to the Municipality, we have Colonel Kennedy's figures to show that the largest amount ever paid in the past by the Elphinstone Company was Rs. 39,000,—

The Honourable Colonel KENNEDY—Not so much as that, only Rs. 26,000. Rs. 38,000 was the largest amount ever claimed by the Municipality, but the actual payment was only Rs. 26,000.

The Honourable Mr. BYTHELL—I understand the Municipality received only Rs. 26,000 and never claimed more than Rs. 38,000. It is still an open question whether all Government property should not be taxed, but as regards the financial position of

the Municipality it cannot be said that municipal revenue will be injured by the formation of the Trust, for the Municipality will receive Rs. 50,000 instead of only Rs. 26,000 or Rs. 28,000 as heretofore. It appears to me the Municipality will not be one pie worse off when the Port Trust is formed, because if it were not formed, Government I believe would only make a contribution, and I think it is extremely unlikely that that contribution would amount to more than Rs. 50,000. As regards the decrease of trade in piece-goods that, unfortunately, is true; but I don't think this can be attributed to the bunder fees, although they are a new tax on the trade; but it is almost entirely caused by the excessive railway charges of one of the companies on this side of India. The Chamber of Commerce has been appealing to the Government and the Secretary of State on this subject for five or six years. Up to a short time ago, the charges on the G. I. P. Railway were so high, as compared with those of the East Indian Railway, that goods could be sent from Calcutta to Jubulpore and some considerable distance on the G. I. P. Railway before the rates were equalised I think that if we could in a short time have docks or piers, or something of that kind, which would enable us to save the money spent on boat hire in landing goods, possibly it would have some effect in assisting us in competing with Calcutta. But all these are minor considerations compared with the great one, the difference in the railway charges, which is so enormous that the trade of Bombay in Manchester goods is steadily decreasing, while that of Calcutta is steadily increasing. I agree with the Honourable Mr. Rogers and the Honourable Colonel Kennedy with regard to the character of the management we have been enduring for several years past, and I think it would be well if the management were placed in the hands of a Port Trust, if only to ensure publicity, so that enormous works could not be undertaken without the merchants being asked as to whether they are likely to be profitable. Many illustrations may be given of the way in which money has been squandered,—for instance, the Mody Bay affair. That is one illustration of the disadvantage of the management being in the hands of a Government Department, and a very good one indeed. Therefore I repeat, as I cannot see how the formation of the proposed Trust could place the port in a worse position than at present, in negotiating with the Government of India for a further reduction of debt (should a falling off in the trade unfortunately make the step necessary), and as I believe that a Board of Trustees would be able to prevent a repetition of the past wasteful expenditure, I shall vote against the honourable member's amendment.

The Honourable Mr. Forbes—I am sorry that several honourable members appear to have misunderstood the drift of my remarks, because I am very far from wishing to see this Bill thrown out, since I think generally that its effect will be to afford a good deal of benefit to the trade of Bombay. At the same time, I wish to see the Bill go up to the Government of India in as perfect a form as possible, and not in a form which will probably result in a further reference to Government being made within a few months after the commencement of the operations of the Trust. I feel that the trade of Bombay cannot stand any further charges being imposed, and I am afraid that the first difficulty which the Trust will experience will be the payment of the interest upon the debt to the Government of India. I think it would be just as well to have all doubtful matters finally settled before this Bill comes into existence, and I should like to see the principle settled whether, in the event of the port revenue being insufficient, the trade will be saddled with increased charges, or whether the Government of India will diminish their claims. The Honourable Mr. Bythell

seems to think that if the Trustees go up to the Government of India—and I rather understood him to say that it is possible they may have to go up soon—their petition will be favourably received. But I for one think it would be better to place this matter upon a satisfactory footing before we pass this Bill. The men most suited to act as Trustees will be more willing to do so if this point were settled. I do think that the principle which seems to be declared in this 58th section—that because trade falls off so that the interest on the Government of India's loan cannot be paid, therefore the charges upon the trade of the port must be increased—is a perfect absurdity.

The Honourable Mr. BYTHELL—I did not intend to say that I contemplated that the Trust would have to go up to the Government of India to ask for the reduction of the debt, because I believe the contrary—that they never will have to go up to the Government of India with such a request. I believe that there will be no difficulty in the Trust succeeding if we manage to get the different railway charges adjusted.

The Honourable Colonel KENNEDY, with reference to a remark which had fallen from the Honourable Mr. Bythell, spoke in justification of the purchase of the Mody Bay estate which purchase, he contended, tended to prevent a private monopoly.

His Excellency the PRESIDENT did not wish it to be considered that he was a consenting party to the idea that the local Government did not know how to manage the Elphinstone property, and therefore had to create the Port Trust. Nor did he understand that to be the opinion of the Honourable Mr. Rogers. He understood that gentleman only to say that such had been alleged to be the case. The fact was, that for a long time the Government had not attempted to improve the management. They had been paralysed by the expectation of the creation of this Port Trust or Corporation, which, he thought, would prove unnecessary as well as inconvenient, and he had no doubt that the local Government could, if called upon, find means to manage the Elphinstone estate with efficiency and economy. The Honourable Mr. Bythell had blamed Government for the reckless purchase of the property, and had attributed their present difficulties to the absence in past years of mercantile influence over the proceedings of the Government. But the information which had reached him (the President) as to the past history of Bombay did not dispose him to give greater credit to the mercantile community than to the Government of that day for prudence and circumspection, nor did he see any reason for believing that if mercantile influence had been greater, our present position would have been better. He would regret any postponement of the progress of the Bill.

Mr. Forbes withdraws his motion for postponement, and the Bill is read a third time and passed.

The Honourable Mr. Forbes said that as he saw no hope of his amendment being agreed to, he would withdraw it.

The Honourable Colonel Kennedy's motion was then agreed to, and the Bill was read a third time, and passed.

His Excellency the President then adjourned the Council.

JOHN NUGENT,
Acting Under Secretary to Government.

Bombay, 13*th February* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Wednesday, the 23rd July 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable the ADVOCATE GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.

Affirmation of Office, &c., taken by Mr. Ravenscroft.

The Honourable Mr. Ravenscroft took the usual affirmation of Office and declaration of allegiance to Her Majesty.

The following papers were presented to the Council:—

Papers presented to the Council.

1. Letter from the Secretary to the Government of India returning, with the assent of His Excellency the Governor General signified thereon, the authentic copy of the Bombay Municipal Bill of 1872.

2. Letter from the Secretary to the Government of India returning, with the assent of His Excellency the Governor General signified thereon, the authentic copy of the Bombay Port Trust Bill.

The Council then proceeded with the Bills and Orders of the day.

Mr. Rogers moves the first reading of the Hereditary Village Offices Bill.

The Honourable Mr. Rogers, in moving the first reading of Bill No. 2 of 1873 (a Bill to alter and amend the law relating to Hereditary Village Offices,) said—Sir,—I have the honour to move the first reading of this Bill. As may be seen from the Statement of Objects and Reasons, this Bill, in the first instance, was drafted by a committee, under the instructions of Government, for the purpose of making a settlement with regard to the status of all district and village hereditary officers. Owing, however, to a subsequent change in the law that part of the Bill relating to hereditary district officers became unnecessary, and only those sections have been retained which relate to the village officers. The committee consisted of two Revenue Commissioners and some of the most experienced Collectors in the presidency, and the experience of these gentlemen is our guarantee that everything which is really necessary under the circumstances has been provided for in this Bill. The importance of the measure as affecting the rural population of this presidency can hardly be exaggerated, as every village will probably be brought under its influence. There are two principal classes for whom this

egislation is to be provided. One is the class of officers whose appointments are strictly hereditary in most parts of the country, and the other is that class of village servants whose offices, though they cannot, strictly speaking, be called hereditary, yet by custom have almost become regarded as such. In the former class we find the patell, or head man of the village, and the koolkurnie, or village accountant. I need hardly explain to the Council what the duties of these individuals are, but perhaps I may be allowed to do so briefly in order that the public may know what the main objects of the Bill are. The patell, as I have said, is the head man of a village, who under our system is chiefly entrusted with the duty of representing the villagers in all transactions between the villagers and the Government. The patells are divided into what are called revenue patells and police patells—the former of whom have the general charge of the village revenue, while the latter have charge of the police arrangements of the village. In some instances the offices of revenue and police patell are combined. The koolkurnies are the hereditary village accountants, and I need scarcely say that they as well as the patells are of great importance in our system of revenue administration. Throughout nearly the whole presidency the ryotwari system of revenue management prevails, and the responsibility of seeing that all the records relating to the realisation of Government revenue are properly kept is in the hands of these hereditary village accountants. The other class of village officers is a much more numerous one, and some of them render service only to the State, while some render service only to the villagers. It may be as well if I describe a few of these services. Those mentioned in Mr. Gooddine's Report on the Deccan Village Communities are as follows :—

Sootar.—The carpenter is at the head of the artisans, his services being most in requisition : he makes up and mends all wooden implements for agricultural purposes, the owners finding the material ;

Lohar.—The smith makes and repairs the ironwork for all agricultural instruments, the owners finding the material ;

Chambar.—The shoe-maker makes all leathern halters, whips, ropes, and bands for agricultural purposes, the owners finding the leather ;

Nhawee.—The barber must shave all the farmers and artisans,—to the Mahars he merely lends a razor. He must attend the patell's wedding, at which he expects to receive a turban.

I need not give you the details of all the other village servants, but briefly they are the pureet, or washerman ; the bhut, or village astrologer, who casts nativities, and keeps the farmers informed of the proper time for sowing and reaping ; the gooroo, or officiating priest of the temple ; the moolla, or Mussulman priest ; the sonar, or goldsmith ; the bheel, or village watchman ; the kolie ; the mang, the rope and basket maker ; the mahar, or guardian of the village.

Such is a brief description of the classes for whom we now propose to provide legislation. This Bill will settle what has never been settled before by legislation on the subject. Under the old regulation No. XVI. of 1827 the settlement of village wuttuns was contained in the sections from seventeen to twenty. These sections were found to be unsuitable and after a good deal of correspondence Act XI. of 1843 was passed, sections seventeen and eighteen of the old regulations were cancelled and sections nineteen and twenty were allowed to remain on the statute-book. The Act of 1843 applies both to district hereditary

officers and to village hereditary officers. It has, however, been found to be almost unworkable in practice. One great reason for this state of affairs with regard to the officers in my first class—viz., that of the patells and hereditary accountants—has been the custom which has sprung up of taking service in rotation. Section 4 of Act XI. of 1843 merely laid down in general terms that when the performance of the duties was claimed in rotation by different sharers they should nominate some one to serve, and in the event of their not so nominating, the Collector or other controlling officer should exercise the power of selection, but it provided no rules for fixing the order of rotation, and it has become the practice, not unnaturally, for the Collectors to determine the matter for themselves. I have looked over the correspondence which led to the passing of the Act, and have come to the conclusion that it was intended that service by rotation should not be allowed at all—in fact, it was so proposed in the draft Act which was sent down from the Supreme Council, although that proposal was subsequently modified and the words in Section 4 of Act XI. of 1843 adopted. The Supreme Government, in their desire that service in this manner should be prevented as far as possible, proposed that it should be competent to the Collector to refuse any nomination to service by rotation. That, however, as I have said, was not finally agreed to, and the Act was carried in such a form as to permit service by rotation in those places where that custom was found to exist. One of the chief objects of the present Bill is to remove all doubts upon that head. At present, if there is any dispute about service by rotation, the Collectors have to decide as well as they can, without being guided by any legal authority, and the result is that their decisions might be taken into the civil court and upset at any time. At present there is no authority who can initiate a settlement of any of these wuttuns. By the order of the Executive Government there has lately been prepared a register of all the wuttuns laying down the order of rotation in which services shall be performed, and thus endeavouring to settle the numerous complaints relating to wuttuns that continually occur. I have heard it said that there is an idea that the present Legislature, by this Bill, intends to interfere with the prescriptive rights of village officers. But that is very far from being the case. It is of the greatest importance to Government that its own concerns in the villages should be managed legally and properly, and it is the interest of Government to settle these wuttuns in such a manner as shall allow people to remain happy and contented, and not to be continually litigating, as the present state of the law allows them to do. It is not in any way meant to set aside the system of service by rotation where it actually exists. We find in practice that owing to there being no law on the subject Collectors in different parts of the country have taken various ways of settling matters, and we propose that the Executive Government shall have power to issue an authentic register of all village wuttuns, by which it shall be determined once and for all in which of them the practice of service by rotation shall be recognised, and what and in whom vested shall be the order of such rotation where it is admitted. Before concluding I may point out a few of the sections of the Bill which affect the main principles of the measure. It has always been the custom—at all events since Regulation XVI. of 1827 was passed—to set apart certain portions of the emoluments of those hereditary offices for the performance of duties by one or more persons who may be selected from the wuttun as officiators. That power is continued by Section 3. Section 4 contains provisions which will settle disputes with regard to emoluments claimed by the hereditary officers of the inferior class (such as mhars and dhers) from the villagers as a matter of private arrangement. It has been

found in some places where our system of revenue surveying has rendered the registration of land so perfect that there is very little use for the services of some of these hereditary officers, that the villagers who have been in the habit of paying them with grain or some small perquisite now refuse to pay them anything at all; and it is suspected that the mhars, seeing no probability of recovering their rights, or what they imagined to be their rights, except by the expensive process of going to law, have resorted to the poisoning of cattle. This section will provide a simple means for remedying this state of affairs. By it a punchayet will be appointed, and the matters in dispute will thus be satisfactorily settled. In Section 7 the existing power that there is by law to set aside both lands and allowances for the purpose of remunerating officiators is continued. Section 9 gives the power which I have alluded to already—that is, that it shall be the duty of the Collector to determine who is the head of a family, or branch of a family holding any wuttun, or (where the wuttun is shared among various persons) the number and names of the principal sharers and the value of their shares in fractions of a rupee. A subsequent section —Section 33—lays down that the civil court cannot entertain "any suit questioning the decision of the Collector under this Act, or the orders of the Revenue Commissioner or Government thereon, except in so far as the rights of private parties *inter se* to recognition as the holder of any headship of a family or principal share are concerned." The Collector, in the first instance, is to prepare the register, and it is to be hoped from the manner in which inquiries will be conducted by them in the presence of the villagers themselves that there will seldom be any reason for referring to civil courts at all. As it is a matter of no importance to Government who may be the head of a family, of course parties will be at liberty to dispute that point in court. By Section 10 the Collector is to determine the number of officiators required, and what persons are entitled to serve. Section 11 was introduced for the purpose of softening the blow, as it were, in some cases where it was found necessary to appropriate a large portion of the hereditary revenue of the wuttun to the remunerating of the officiators. The remainder of the sections to Section 23 are mostly subsidiary to those main points which I have mentioned. Section 24 establishes a different procedure in the case of the hereditary officers and that of the inferior village servants, whose offices, as I have said, are not properly hereditary, although custom has made them to be so considered. Section 25 lays down the manner in which records shall be kept of the lands and allowances belonging to hereditary officers, and when the Bill goes into Select Committee it will very likely be necessary to introduce another section by which registers, which have been already made, shall be legalised so far as they may be consistent with the rules which Government, under this Bill, have power to frame. Perhaps some persons may take exception to the powers granted to the Collector under Section 7 to summarily take possession of land held by officiators if, before the passing of this Act, that land is in the occupation of other than the person performing the service. Under the old law the alienation of any wuttun is most distinctly forbidden, and reasonably so, seeing that these wuttuns exist in lieu of services rendered. Therefore, if it is found to be the case that people have illegally alienated any portion of these official emoluments, and others have been so foolish as to take these emoluments as security for debts or so forth, the Collector ought to have the power granted under this section in order to take possession summarily of these lands or assess them to their full value. The case of mortgagees is provided for under Clause three of the section which I am now alluding to. I need only add that it is the intention of Government to give every publicity to this Bill, and ample time will be

allowed in order that its provisions may be known throughout the length and breadth of the mofussil. Government have no wish to do anything in this Act which shall interfere with the hereditary rights of the wuttundars except in so far as these concern the interests of Government and the property set apart on behalf of their service. I beg to propose that this Bill be now read a first time.

Bill read a first time and referred to Select Committee.

The Bill was read a first time and referred to a Select Committee, composed of—

The Honourable Mr. MUNGULDASS NUTHOOBHOY,
The Honourable Mr. NARAYEN VASUDEVJI,
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN,
The Honourable Mr. RAVENSCROFT, and
The MOVER.

The Honourable Mr. Rogers having proposed that the Committee should be instructed to report within six weeks, His Excellency the President enquired if it was necessary to have six weeks for this purpose. In reply

The Honourable Mr. Munguldass Nuthoobhoy said that he thought the proposed time was necessary and observed that although the Council may gain official information from the Revenue Collectors, it ought also to know what the people who are or will be affected by the Bill have to say. Most of these people are comparatively ignorant he said, and he would suggest that Government should direct all the Mamlutdars to take steps to publish this measure in the language of the districts and also to inform the people to make their representations within a prescribed time.

The Honourable Mr. Rogers remarked that as this measure had been very long delayed already, he thought it was of considerable importance that it should be passed this session. If the Honourable Mr. Munguldass' suggestions could be carried out so as not to interfere with this object, he would not object to them.

The Honourable the Advocate General called attention to the fact that according to the rules of the Council it would form a question whether the report of the Select Committee should not be translated into the vernaculars of the Presidency.

His Excellency the President said that that would cause still further delay, and suggested that the report of the Select Committee should be returned within a fortnight in order to permit of the report being circulated and the Bill passed this session.

The Honourable Mr. Munguldass said that his apprehension was that according to the rules of the Council parties interested in a measure could not give evidence before the whole Council—evidence being only permissible before the Select Committee, and that if the Committee's time for reporting be shortened in the manner proposed the mouths of a number of people whose interests were affected might be shut.

His Excellency the President recalled the procedure which was adopted during the consideration of the Municipal Bill last session when almost up to the moment of its being passed a number of objections were received against it. He thought that looking to the apparent necessity of passing this session the Bill now before the Council, the Select Committee should proceed at once to take the best information; that the discussion by the Council should commence as soon as the Committee presented their report; and that the third reading of the Bill should stand over for a little in order to give time to persons to send in objections against it. If six weeks were now given to the Select Committee to report, the passing of the Bill might be postponed indefinitely, although, according to what he had been told by experienced gentlemen to whom he was bound to give every

credence, there was the greatest necessity for the Bill being passed at once. The questions raised by the Bill had been discussed for many years, and it could scarcely be supposed that any more information on the subject could be collected now. The Bill would not enact anything oppressive to the wuttun-holders, and there was no disposition on the part of the Government to deprive them of anything which they possessed at present. All that was desired was that their rights should be put upon a legal footing.

The Honourable Mr. Gibbs concurred with the remarks made by His Excellency the President.

The Honourable Mr. Narayen Vasudevji hoped that at least a month might be allowed to the Select Committee. The provisions of the Bill would affect the vested interests of a large number of people in this Presidency, and besides this as the decision of the Collector in many cases would be final, he deprecated any hasty action.

After some further discussion,

Select Committee to report on the Bill within 3 weeks.

His Excellency the President suggested that the Committee should report within three weeks, and that the Bill be taken into consideration on the 20th August; and that the report should be translated into Canarese, Marathi, and Guzerathi, and widely circulated.

This was agreed to.

Mr. Ravenscroft moves the first reading of the Bill to alter and amend the Bombay Municipal Act of 1872.

The Honourable Mr. Ravenscroft, in moving the first reading of Bill No. 3 of 1873 (a Bill to alter and amend the Bombay Municipal Act of 1872), said that this very short measure was introduced to legalise the arrangements made for the first election, because it had been found impracticable, owing to the period at which the Bombay Municipal Act came into operation, to adhere strictly to the precise terms of the Act. In the exercise of the powers conferred upon the Government by the 306th Section of Act III. of 1872, which related that the Act should come into operation from a date hereafter to be notified by the Governor in Council, and that it should be lawful for His Excellency to declare the day before which the payment of the municipal rates should qualify a person to be appointed a member of the Corporation and to vote at the election of any such members, also that His Excellency should fix the time for electing, nominating, and appointing the members and officers of the Corporation, the necessary dates and days had been duly notified in the *Government Gazette*. And under Section 8 of Act III. of 1872 the next municipal election after the present one must be held in 1875 on some date before the 26th July of that year. But ratepayers have not usually paid their full amount of house, police, and lighting rates so early in the year as that month, and consequently this Bill had been introduced, declaring that the "Municipal Corporation shall be rate-payers, residents in the city of Bombay, who have attained the age of twenty-five years, and shall have severally paid, before some day to be declared by notice in the *Government Gazette* by the Governor in Council, the following municipal rates for the year next preceding the election," &c.; also that the thirty-two members to be elected by rate-payers will be eligible if they have "severally paid, before some day to be declared by notice in the *Government Gazette* by the Governor in Council, the municipal rates specified in Section 4 of this Act for the year next preceding the election to the amount of not less than fifty rupees," while the elections shall take place at such date as may be fixed by the Governor in Council. The fresh dates and days having, as before mentioned, been duly notified in the *Government Gazette*, the Honourable the Advocate

General had pointed out that a third section should be added to the Bill in the following terms:—

"III.—This Act shall be deemed to have come into force on the 20th day of June 1873; and any election of members of the said Municipal Corporation that may take place according to the provisions of this Act between the said 20th day of June 1873 and the passing of this Act shall be valid, and shall have the same effect as if made according to the provisions of the Bombay Municipal Act of 1872."

He (the Honourable Mr. Ravenscroft) agreed that this section was desirable, and he, therefore, begged to add it to the two sections of which the Bill previously consisted. As a matter of form he asked His Excellency the President to suspend the standing orders, so as to permit of the Bill being passed at once.

Standing orders suspended.

The standing orders having been suspended, the Bill was read a second time and considered in detail. The 3rd Section as suggested by the Honourable the Advocate General was added to the Bill.

Bill read a second time and considered in detail.

The Bill was then read a third time and passed.

Bill read a third time and passed.

The Honourable Mr. Gibbs moved that Bill No. 4 of 1873 (a Bill to legalise certain payments made from the proceeds of the fees levied under (Bombay) Act IX. of 1863) be read a first time. He said that the reason for the introduction of this Bill was briefly this—to formally legalise certain payments and advances which had from time to time been made from the Fund raised under the Cotton Frauds' Act for objects connected with the introduction of new sorts of seed and the general improvement of the cultivation of cotton, but regarding which doubts had arisen as to whether they came within the letter of the Act, viz. Bombay Act IX. of 1863. Section 13 of that Act stated that the funds were to be appropriated by His Excellency the Governor in Council solely to the carrying out of the objects of that Act. By a strict reading the object of the Act was solely to stop cotton frauds, although it had been intended when it was passed that the funds should be applied, when necessary, to the introduction of superior descriptions of cotton. Certain payments for this purpose had actually been made, but as doubts about the strict legality of this procedure had been expressed, the present Bill had been prepared. The honourable gentleman moved that the Bill be read a first time and referred to a Select Committee, consisting of—

Mr. Gibbs moves the first reading of the Bill to legalise certain payments made from the proceeds of the fees levied under Bombay Act IX. of 1863.

The Honourable Mr. Bythell,
The Honourable Mr. Ravenscroft,
The Honourable Sir Jamsetjee Jejeebhoy,
The Honourable Mr. Narayen Vasudevji, and
The Mover;

their report to be submitted within two weeks.

His Excellency the President doubted the necessity of referring Bills to Select Committees when no special points were involved in them. This, he said, was contrary to the usage of Parliament at home, where Bills were submitted to Select Committees only when there was something special to be discussed.

The Honourable Mr. Gibbs remarked that it was advisable in the present case that the Bill should be referred to Committee, because there was a question whether certain

payments which were made towards a collection of samples of cotton for Bombay Exhibition were justified under Act IX. of 1863 as it already stood. The Select Committee would also have to consider a certain statement which would be submitted to them.

The Honourable the Advocate General asked if there was any necessity at all for the Bill. Could His Excellency the Governor not dispose of the matter in his executive capacity?

The Honourable Mr. Ravenscroft said that the original resolution passed by Government on the subject stated that the disbursements did not seem to have been made in strict accordance with law, and therefore to set aside all doubt, it would be advisable to agree to the Bill.

After some further discussion it was decided that there was no necessity to refer the Bill to the Select Committee, but that it should be read a second time at the next meeting of Council.

Bill read a first time.

The Bill was then read a first time.

Mr. Rogers moves that the Mofussil Boilers Inspection Bill be withdrawn.

The Honourable Mr. Rogers moved for permission to withdraw the Mofussil Boilers Inspection Bill (No. 1 of 1873). The reason for the withdrawal was that this Bill should be incorporated in another Bill which it is intended shall supersede the present Bombay Boilers Act. In that Act a serious defect had been discovered, viz., that while the law provided for the inspection of steam boilers it did not provide for the inspection of the men who work them, so that a great means of protecting the lives of people was wanting. In the Bill which it was contemplated to introduce, in order to cure the defect just alluded to, the Bill now withdrawn would be incorporated, so that one Boilers Act would apply to Bombay and the Mofussil.

Bill withdrawn.

Leave was given and the Bill withdrawn accordingly.

Mr. Rogers moves that a Select Committee be appointed to examine petitions against the Burial and Buring Grounds Bill.

The Honourable Mr. Rogers moved that a Select Committee be appointed to examine and report on the petitions relating to the Burial and Burning Grounds Bill (No. 7 of 1870). Since the Bill was before the Council last session a great many petitions had been sent to Government against it, and it was necessary that the complaints should be inquired into carefully. The Select Committee proposed were—

The Honourable Colonel KENNEDY,
The Honourable Sir JAMSETJEE JEJEEBHOY,
The Honourable Mr. MUNGULDASS NATHOOBHOY,
The Honourable Mr. NARAYEN VASUDEVJI,

and (in place of the original introducer of the Bill, the Honourable Mr. Tucker) the MOVER.

The Honourable Mr. Gibbs thought that the contemplated Mofussil Municipalities Bill would render this Burial and Burning Ground Bill unnecessary.

The Honourable Mr. Narayen thought that the Bill should be rejected altogether, because it was only likely to create dissatisfaction.

After a few remarks the motion was carried and the Select Committee were instructed to report within a fortnight.

His Excellency the President then adjourned the Council to 11th August 1873.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
Acting Under Secretary to Government.

Poona, 23rd July 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Monday, the 11th August 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Honourable Mr. GIBBS, in moving the second reading of Bill No. IV. of 1873, said :—

Mr. Gibbs moves the second reading of the Bill to legalize certain payments made from the proceeds of the fees levied under Bombay Act IX. of 1863.

I beg to move the second reading of Bill No. 4 (a Bill to legalize certain payments made from the proceeds of the fees levied under (Bombay) Act IX. of 1863). As I explained when I introduced the Bill, certain payments and advances appear to have been made by Government from time to time out of the funds which were levied under Bombay Act IX. of 1863 ; and with regard to some of these items the Government of India, and also the local Government, came to the conclusion that they were not, strictly speaking, legal within the terms of that Act. The thirteenth Section of that Act says that " all funds so levied shall be brought to the credit of a fund to be called the Cotton Improvement Fund to be appropriated by His Excellency the Governor in Council to the objects of this Act." Now, the object of that Act was to prevent frauds, and hence arose the difficulty which has led to the introduction of this Act, because the payments which I have alluded to cannot be called payments for the prevention of cotton frauds. The various items are shown forth in a very long statement which has been prepared by the Cotton Commissioner, and I find that they extend over a period from 1865 to the present time. The nature of the items may be learned from one or two of them. I see there is an item of an advance to a gentleman to aid him in carrying out certain cotton experiments in the Berars and Khandesh ; another, for the purchase of lever presses of a particular description ; another with regard to experiments upon Hingunghat seed conducted by the Collector of Khandesh. There are a great many items referring to the purchase of different kinds of seeds and presses and gins, all of course bearing upon the efforts which have been made to improve the growth and preparation of cotton. In 1866 a grant was made out of the fund for the purchase of samples of cotton of different descriptions which were to be forwarded to the Paris Exhibition. This was one of the items about the legality of payment of which under Act IX. doubts are

entertained. Another of these items is an advance of Rs. 20,000 which was made towards the purchase of cotton for the late Bombay Exhibition; but of that, I may say a considerable portion has been refunded, so that the total expenditure upon that account is only Rs. 14,627. In reviewing the whole matter, the Government of India considered that some of these items were exceptionable and some illegal, and the Government of Bombay arrived at the same conclusion. This Bill is the consequence. I believe it has been objected that this Bill is not exactly necessary, His Excellency the Governor in Council having power to settle the matters in dispute; but I think that, after the opinion expressed by the Government of India, the course now being adopted is the better one. With these remarks I beg to move that the Bill be read a second time.

Bill read a second time and considered in detail.

The motion was agreed to, and the Bill read a second time. The Council then proceeded to consider the Bill in detail.

The Honourable Mr. BYTHELL suggested that the words used in Section 1 did not entirely express the intention of the Honourable mover. The Bill as it stood legalized sums expended "for any purpose connected with the introduction and cultivation of superior descriptions"; but more than this was requisite.

His Excellency the PRESIDENT proposed that the words used ought to be "for the purpose of encouraging the introduction and manufacture of superior descriptions of cotton and cotton fabrics shall be deemed to have been legally expended," &c.

The Honourable Mr. RAVENSCROFT approved of His Excellency's suggestion, because he remembered that a portion of the advance of Rs. 20,000 for the Bombay Exhibition referred to by the Honourable Mr. Gibbs had been actually expended upon cotton fabrics.

His Excellency's amendment was agreed to, and the Section was passed.

Bill read a third time and passed.

The preamble and title were also agreed to; and the Bill was then read a third time and passed.

The Honourable Mr. ROGERS, in moving for the first reading of Bill No. 5 of 1873, said:—Sir,—I beg to propose the first reading of Bill No. 5 of 1873 (a Bill for consolidating and amending the law relating to salt in the Presidency of Bombay). I need hardly dwell upon the importance of this measure. The revenue collected annually from salt is over a million sterling. From figures which have been supplied to me by Mr. Pritchard, the Collector of Salt Revenue, I find that the average for the four years from 1838-39 to 1841-42 was fourteen lakhs; owing to the great increase in rates of excise that amount has risen within the last year to sixty-eight lakhs; in addition to this a very large export trade takes place to Calcutta and the Malabar Coast in accordance with special arrangements with the Government of India and Native States on the Coast, by which salt is exported free of duty; and if the value of that is added to the sixty-eight lakhs, it will be found that the total value of the salt excise is just about what I have stated—a million sterling. I may say, however, that the figures given by Mr. Pritchard are 104 lakhs. By this Bill we endeavour to provide means for obtaining the fullest value of the revenue assessed upon salt in this Presidency. Owing to successive enhancements of the excise upon salt it is natural to suppose that a great incentive has been given to smuggling, the laws hitherto passed to prevent it having been found ineffectual. There is a considerable difference

Mr. Rogers moves the first reading of the Salt Bill.

in the system of levying salt revenue in different parts of the Presidency. Thus in Gujrat it is the practice for Government to hold the salt pans while the people are allowed to manufacture, not exactly on the part of Government but under an implied contract with it. In Tanna and the Southern Division the system is different, the salt pans and works being owned directly by private individuals, although before any salt can leave the manufactories it must be assessed to the excise revenue by a Government officer who is in charge. Under the practice in Gujrat it has been found practicable to greatly diminish the number of salt pans. A number of the smaller salt works have been suppressed, but one large salt work has been established by Government near Patree in the Lesser Runn of Kutch. Where the whole manufacture is carried on by Government, experience has taught us that the prevention of smuggling is a comparatively easy matter, while the contrary is the case where the trade is left in the hands of private individuals. Therefore, a great many of the provisions in this Bill have been framed with the view of enlisting the assistance of those who are or may become salt factory proprietors in the prevention of fraud. The present system may be said to have originated from the time of the passing of Act XXVII. of 1837, although it was not necessary then for any person to obtain leave to open a salt work: all that he required to do being to give notice to the Collector of his intention to open a salt pan. By Act XXXI. of 1850, the working of salt pans was prohibited except under an official permit. In 1827 the excise on salt was 8 annas per maund; by Act XVI. of 1864 it became one rupee; by Act VII. of 1861 it was raised to one rupee and a half; by Act XXIV. of 1869 it was again raised to Rs. 1-13 as., which is at present the excise upon salt per Indian maund. Hitherto no person has been compelled to take out a licence for the manufacture of salt, but it is now intended that whoever proposes to make salt must be provided with a licence; but lest this should be interpreted as an interference with vested interests a clause has been especially introduced into the Bill by which the Collector of Salt Revenue will be debarred from refusing a licence to present proprietors except under certain circumstances in which the Government have always had the power to put a stop to works. The Section which I am referring to is Section 19, which says—"A licence shall not, except as hereinafter mentioned, be refused for the manufacture of salt at any salt work not being the sole property of Government which is being worked at the time of the passing of this Act, or which may have been worked within three years of the date of its introduction." The remainder of the section merely repeats the present law, which is in effect that any salt work which on an average of any three years shall not have produced yearly at least five thousand Indian maunds of salt may be suppressed. Under this Bill, we make it competent for Government to suppress such a salt work, and to the Collector of Salt Revenue to withold a licence when any salt work has remained unused for three consecutive years. Hitherto the salt work proprietors have contented themselves with enjoying the profits of their manufactories, and have not taken any trouble to regulate the general management of their works so as to prevent smuggling. We now propose to give them the means by which they shall have every opportunity of checking smuggling; they will be allowed at the commencement of every manufacturing season, which is at the end of the monsoon, to hand in a list of the servants whom they employ or intend to employ in the salt manufacture, and by this means we believe that trustworthy people will be placed in charge of their works. At present a proprietor has nothing to do with the weighing of salt or in seeing it out of his

The Collector of Revenue to grant salt licences as usual except under certain circumstances.

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The proprietor of a salt work to see after the thorough weighing of the salt produced in his factory.

hands into those of the purchaser. By certain provisions of this Act it will be incumbent upon the proprietor of every work, either by himself or his authorized servant, to see that the salt is properly weighed at the salt works, and afterwards that, according to rules prescribed by Government, it is taken to a certain preventive station where it is to be weighed over again. It has been discovered that the principal cause of smuggling is due to the carelessness of the people on our own establishments giving overweight, and the sections which have been drafted regarding re-weighing at preventive stations may remedy this to a considerable extent. A chief means to prevent smuggling is of course to concentrate the manufactories as far as possible. The present law permits the suppression of works that do not turn out 5,000 maunds of salt a year, and in this Bill means are also provided by which any work may be suppressed on the payment by Government of compensation equal to the market value of the works suppressed. The provisions relating to this subject are similar to those for the acquisition of lands for Government purposes, so that if it should happen that for fiscal purposes it may be necessary to suppress any salt works, no injustice will be done to the proprietors. Another proposal by which we hope to prevent smuggling as far as possible is to lay down that within ten miles of salt works no buildings shall be used for the storing or reception of salt for purposes of sale unless licensed.

Certain works may be suppressed· Government granting compensation.

His Excellency the PRESIDENT—The Town and Island of Bombay excepted?

The Honourable Mr. ROGERS—Yes. Other provisions are made by which Government shall have power to lay down rules to regulate storage and the removal and manner of removal and manner of packing salt which experience has taught to be necessary on account of the smuggling that takes place in the export of salt by sea. A great deal of the exporting by sea takes place during the monsoon months, and in consequence of the state of the ground during that period of the year in all the southern parts of the Concan the weighing of salt is a very difficult operation, people having frequently to work up to their knees in mud. The work is in consequence apt to be slurred over by our officials. Moreover, there is no security that the salt supposed to be weighed when it is put into the boats is correctly weighed, because in consequence of the disagreeableness of the duty of weighing, the salt is frequently merely shovelled in. Government in this Bill retain power to lay down rules by which salt shall be properly weighed, and packed only in a certain way for export. We have found that another way in which smuggling takes place is in consequence of the practice of persons purchasing only the larger crystals, while the lesser are left; and to prevent this refuse salt being smuggled out of the works and sold, power is here given to destroy that description of salt. I may add that very few of the provisions in this draft Act do not already exist in either of the existing Acts in force in other parts of India. By power given in the last Bengal Act, in addition to the provisions of the Act itself, rules have been laid down by Government which are far more stringent than anything which we propose to enact in this measure. It may be found necessary, however, to introduce these rules if, notwithstanding all our precautions, smuggling is still found to be carried on to a great extent. It is to be hoped, however, that there will be no necessity for doing so, although we have made provi-

Government to lay down rules for the proper exportation, weighing, and packing of salt.

sion here for such an unfortunate contingency. Where so large a portion of the imperial revenue is dependent upon salt, it is of course necessary that the laws to enable us to reap the full value of our excise should be stringently carried out; otherwise the expense and trouble of Government in collecting the revenue will be to a certain extent unavailing, and the general revenues of the country will suffer. With these remarks I now beg to move the first reading of this Bill.

The motion was carried.

The Bill read a first time and referred to a Select Committee.

The Honourable Mr. ROGERS then proposed that the Bill should be referred to a Select Committee, to consist of—

The Honourable Colonel KENNEDY,
The Honourable Mr. RAVENSCROFT,
The Honourable Sir JAMSETJEE JEJEEBHOY,
The Honourable Mr. NARAYEN VASUDEVJEE, and
The Mover.

As there were large interests to be affected by the measure, especially in the Concan, the honourable member thought that at least a month to report ought to be allowed to the Committee.

The Honourable Mr. MUNGULDASS—I submit, that more time than a month should be given to this Committee to report. Immense interests are affected by this Bill, lakhs of rupees having been invested by private individuals in salt pans and salt works, and I think that ample time ought to be given to these individuals and to the public to consider and represent how their interests may be affected by the measure under consideration. The Government of India, I observe, generally allow as long a time as three and four months to the Select Committees to make their reports on Bills referred to them, so that the people affected by the proposed measures may have an opportunity to express their views on the subject, and I think that something similar might be done in the present case.

His Excellency the PRESIDENT said that he had every wish that the public should get ample time to consider the Bill.

The Honourable Mr. MUNGULDASS further observed:—As an instance of how this Bill will affect individual interests, I may mention that it is here laid down that nobody is to possess more than twenty seers of salt. Now, Sir, I have made inquiries, and I find that for my own household that quantity is required every ten days. Among well-to-do natives it is usual to lay in a year's supply of salt when they lay in grain and other articles of consumption. I therefore hope this provision will be modified when the Bill is considered in Committee.

The Honourable Mr. ROGERS said that as the law stood at present no unlicensed person could have more than five seers.

His Excellency the PRESIDENT remarked that it was a curious fact that more salt came lawfully out of Bombay than ever went lawfully into it.

The Honourable Mr. ROGERS said that according to Mr. Pedder's report two lakhs and three quarters of revenue were lost annually to Government in consequence of salt being smuggled into Bombay itself.

After a short discussion upon the length of time which should be allowed to the Committee to report, the major part of the opinions expressed being that ample time ought to be permitted, it was agreed that the report of the Select Committee should be sent in on or

before 22nd September 1873, and that the Report and Bill should be translated into Gujrathee, Marathi, and Canarese, and circulated.

The Honourable Colonel KENNEDY, in moving the first reading of Bill No. 6 of 1873, said—I beg to move the first reading of Bill No. 6 of 1873 (a Bill for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay). Tolls have hitherto been levied under the general provisions of Act VIII. of 1851 by the Government of India. To that Act a schedule was appended which was subsequently modified by the Government of India by Act XV. of 1864. In the first section of that Act permission is given to local Governments to extend the Act to their Presidencies, but it is not stated distinctly in what manner it should be extended. In 1864 by a Government resolution toll-bars were generally established throughout the Presidency, and the rates of tolls authorised to be levied by that resolution were in some cases in excess of the rates mentioned in the schedule attached to the Act of 1851. At the same time the provisions of Act XV. of 1864 were never formally extended to this Presidency, and in consequence of the difference of the rates which I have mentioned some doubts have been entertained lately as to the legality of the levy under the Government resolution of 1864. The present Bill is therefore introduced with the view of removing this doubt. A doubt also arose as to whether it was within the power of this Council to pass such a measure as this, and the Government of India's sanction has been asked for and obtained. We have also taken the opportunity of consolidating the law on this subject in this Presidency. There is nothing new in the present Bill except that by section two all those tolls which have been levied since 1864 under the order of the Bombay Government of 1864 are legalised. I may state with reference to the schedule which is attached to this Bill that its maximums have never been yet worked up to, although it is advisable to retain them to meet special cases. I may also state, as some attention has been drawn to this item, that although the schedule provides for a toll upon foot-passengers such a toll has never been levied in this Presidency. The power to levy such a toll, however, is retained, because it is considered that circumstances may arise which would make it advisable to use it. For instance, the construction of a special bridge might be undertaken, and in that case foot-passengers might be fairly taxed. For general information I may state that the revenue which is derived from tolls throughout the Presidency amounts to about 7 lakhs per annum, and is entirely devoted to the maintenance of the roads upon which the tolls are levied, though it does not provide for anything like the total cost of maintaining those roads. With these remarks I beg to move the first reading of this Bill.

Colonel Kennedy moves the first reading of the Road Toll Bill.

A toll to be levied upon foot-passengers over bridges.

The Honourable Mr. ROGERS—When the Honourable Colonel Kennedy mentioned the provision of tolls upon foot-passengers, I saw marks of disapprobation from several honourable members; but I would only point out to them that it is very often the case in England that a bridge cannot be built without some provision of that kind.

The Honourable the ADVOCATE GENERAL—I sincerely hope that the last item in the schedule will be omitted. Notwithstanding what has fallen from the Honourable Mr. Rogers, I think that the tendency in England now-a-days is to make bridges free to everybody, and we shall be retrograding very much from the civilisation of the West, if after allowing the natives of this

His Excellency the President, the Advocate General, Mr. Munguldass, and Mr. Narayan object to the foot-passenger toll.

country to use bridges without charge for many years, we begin to tax them for the privilege. Rather than pay this toll of 3 pies, I am sure that many a cooly would swim across a river in preference to using the bridge.

The Honourable Mr. MUNGULDASS regretted that there was quite a new feature in the Bill. He referred to this tax upon foot-passengers. The honourable gentleman believed that such foot-passengers were not hitherto subject to pay toll in any part of India, and was of opinion that the levy was most impolitic. The measure authorized the levy of the toll by seizure and sale of the property of the passenger refusing to pay it, and the honourable gentleman enquired how beggars would be treated in case of refusal to pay the toll ?—whether they would be detained and fed from the imperial funds ? He therefore hoped that these particular provisions would be duly considered and modified in the Select Committee.

His Excellency the PRESIDENT said that his own feeling was very much against this toll, and moreover he thought the maximum rates set down in the schedule unnecessarily high. Hitherto, he believed, the charge for a four-wheeled carriage never went beyond 8 annas, and yet the maximum is laid down here at 2 Rs. for that vehicle, which was a tremendous charge, and never intended to be levied : such a maximum was therefore unnecessary.

The Honourable Mr. NARAYAN VASUDEVJEE and the Honourable Sir JAMSETJEE JEJEEBHOY also spoke against the foot-passenger toll.

The Honourable Colonel KENNEDY—I did not intend to propose that this Bill should be sent to a Select Committee, but considering the objections which have now been raised to a portion of its details, I propose that this Bill be referred to a Select Committee,

The Bill read a first time and referred to a Select Committee.

consisting of—

The Honourable Mr. ROGERS,
The Honourable Mr. NARAYAN VASUDEVJEE,
The Honourable Mr. MUNGULDASS NATHOOBHOY,
The Honourable Mr. GUNPUTRAO TATYA SAHEB, and
The MOVER ;

to report within one week.

The motion was agreed to.

The Honourable Mr. ROGERS, in moving the first reading of Bill No. 7 of 1873 (a Bill to provide for the periodical inspection and the management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay, and within certain districts in the Presidency of Bombay,) said—Sir,—It will be remembered that at the last meeting of Council I asked permission to withdraw a Bill which had been drafted for the same purpose as the Bill of which I now beg to move the first reading. I then stated that in Bombay Act VI. of 1869, upon which that Bill was framed, there was no provision for the examination of engineers placed in charge of boilers. Government has come to the conclusion that, whatever provisions might be made for the inspection of boilers, they would be of very little use indeed if they were not also made the means of preventing accidents which occurred through the incompetence of the men who might be in charge of the boilers. This Bill endeavours to carry out that idea, and will embrace in its operation Bombay as well as the Mofussil. Section 15 provides for the conduct of the examination of engineers

Mr. Rogers moves the first reading of the Boiler Inspection Bill.

placed in charge of boilers, and by Section 21 no person who does not possess a certificate of competency granted under the sections of this Act will be deemed a fit and proper person to manage or be in charge of a steam boiler or prime mover—a penalty being provided for employing unqualified Engineers. The general principles of the measure are well-known from having worked for a long time past in Bombay, and I think that the new feature of seeing that men in charge of machinery are competent to do so will meet with general approbation. The necessity for the new feature in the Bill has been proved by several accidents—particularly two—which occurred, one in Ahmedabad and one in Broach, where the ignorance of the men in charge of the boilers which exploded was the cause of the disasters. As steam machinery is rapidly extending in the Mofussil, the necessity for the present measure is growing stronger every day. On the B. B. and C. I. Railway, I think that every station from Sucheen to Ahmedabad contains a factory for ginning cotton, and I believe that the men in charge of the machinery are any persons whom the managers could pick up.

The Honourable Mr. BYTHELL approved of the principles of the Bill, but believed that some parts of it, particularly those relating to examinations, would require to be considerably modified.

The Bill read a first time and referred to Select Committee.

The Bill was read a first time, and referred to a Select Committee, composed of—

The Honourable Colonel KENNEDY,
The Honourable Mr. BYTHELL,
The Honourable Mr. NARAYAN VASUDEVJEE, and
The Mover;

with instructions to report within a fortnight.

The Honourable Mr. GIBBS, in proposing the first reading of Bill No. 8 of 1873, (the Bombay District Municipal Act of 1873) said—This Bill is designed to provide for the better management of municipal affairs in Mofussil towns and cities. The statement of objects and reasons attached to the Bill is rather lengthy, but this was necessitated by the nature of the subject, and, I think, it will be found that this statement contains a very full description of what the Bill is intended to perform. It was considered advisable that the latter part of the report of the Poona Committee which sat in 1870 to consider the question should be published for general information, and we have therefore incorporated it in the statement of objects and reasons, so that it may be seen upon what principles their draft Bill was prepared. That draft Bill was subsequently modified, more especially within the last month or two, by taking advantage of the Municipal Acts passed in the Legislative Council of the Governor General and the Lieutenant-Governor of Bengal. I therefore humbly suggest that the present Bill has been greatly improved, compared with what it was originally. The fullness of the statement of objects and reasons leaves me very little to say, but on one or two points I may be permitted to make a remark. The old Bill—Act XXVI: of 1850—was of a very elementary nature, and contained no general standard by which the rules which each municipality had the power of making should be prepared, so that what was a tax in one part of the Presidency was not so in another, and what was declared a nuisance in, say, Ahmedabad, was not a nuisance in Poona. In fact the whole Act resulted in a "glorious diversity" respecting all rules, nuisances, or anything connected

Mr. Gibbs moves the first reading of the District Municipal Bill.

with municipal arrangements. Act II., 1862, was introduced to improve matters; it enacted that hospitals, dispensaries, and schools should be supported out of the municipal funds; but in order to show the peculiarity of the original Act, I may mention that there was a clause carefully put in to the effect that municipalities might have the privilege of passing grants for the watering of the streets which had been made under the old Act. The next Act was Act IX. of 1862, which gave power to Government to confer upon Police Commissioners the powers possessed by the Governor in Council under Act XXVI. of 1850. In fact the state of things up to the time the Committee sat in Poona in 1870 was very unsatisfactory. Subsequently to this the Council will remember that an Act was passed—Act I. of 1871—which made municipalities up-country pay certain proportions towards supporting the police of the place Notwithstanding the changes which have taken place in the municipal laws since 1850, I think it is still evident that something more is wanted for the protection of the people and also for the good order and government of different places than the present fragmentary legislation on the subject. This Bill has been prepared with the view of arranging these fragments. The first point in it which I would notice is, that whereas under the old law people were left to ask for a municipality, the present Bill puts the power in the hands of Government to propose the erection of a municipality in any town or place in the districts which it chooses. The reasons for this step are given at length in the Poona Committee's report, and, I think, they must commend themselves to whoever considers the subject. One practical result of the old system was, that where there was an energetic Collector or Assistant Collector he could always manage to gather half a dozen people together and get them to ask Government for a municipality. In other parts of the country, however, where less energy prevailed, municipal matters were neglected. Thus in some districts where municipalities were numerous considerable contributions were made for municipal purposes, while in other parts of the country whatever was paid on behalf of conservancy came out of the general revenues. By section four we give the inhabitants of any place where the Governor in Council desires to introduce a municipality the power of objecting within a certain time. This section we have taken from the N. W. Provinces and Oudh Municipal Acts, which have been passed by the Governor General's Council. This Bill also enables Government to mass little groups of villages into one municipality. When we succeeded to the territory of Satara we found in many of the villages *quasi* municipal institutions, and I belive that at the present moment there are some sixty or seventy villages in that district which enjoy the benefits of municipal institutions with incomes varying from Rs. 60 to Rs. 150 per annum! Some of these might be advantageously massed together. It will be noticed that the municipalities which it is intended to form are divided into two classes—one of large towns and cities and the other of smaller towns and cities. With regard to the former description it will be found in the second clause of the 7th section that the Governor may direct the whole or any portion of the non-official Commissioners to be appointed by election, and may make such rules as he shall think fit for regulating the election. This is the first great step in advance towards carrying out the object of all these municipal enactments—viz., to foster the desire for self-government. This is an addition made to the Bill which was not recommended by the Poona Committee. The law at present enables the Governor to turn out any Municipal Commissioner from any town or village throughout the Mofussil, but the Council will find that by the third clause of this same section there is a limit put to this power—the Governor in Council being authorized to remove only Commissioners who shall desire to be discharged, or refuse or become incapable to act,

or be convicted of an offence punishable under the Penal Code, or shall without sufficient excuse neglect to be present at two-thirds of the meetings during any twelve months at which it was his duty to attend. The next point to which I would call the attention of the Council is the 21st section, in which rules regarding the imposition of taxes, tolls, and other imposts are laid down. Instead of allowing, as at present, each municipality to tax whatever it may be its pleasure to tax, we set down here what things it may be lawful to tax. With regard to the other portions of the Act it will be noticed, attention being drawn to it in the statement of objects and reasons, that the report prepared by the Poona Committee was very generally indented upon by the Committee who settled the Bombay Municipal Bill, and many of their suggestions now find a place in the Act which was lately passed for the town and island of Bombay. I may mention that of the 96 sections of which this Bill is composed 80 are taken from the Bombay Municipal Act: I allude particularly to the general conservancy clauses. They may not be taken in the very words of the Bombay Municipal Act, because we considered these to be rather lengthily drawn out, but we have adhered to their scope. Of course those conservancy sections of that Act which are not suitable for the Mofussil are left out. In conclusion, I may say that I believe this Bill will greatly improve the present state of matters in Mofussil municipalities, and conscientiously I believe it will be found to be an Act which will assist the people in self-government and will not oppress them by additional taxation; in fact, it may lessen the present amount of taxation upon them. With these observations I beg to move the first reading of this Bill.

The Honourable the ADVOCATE-GENERAL—Sir,—There is one section in this bill which I look upon with peculiar satisfaction, and that is the 16th section, which lays down that the Governor in Council may abolish existing municipalities. That is a power which, I hope, will be very largely exercised regarding a number of municipalities which now exist without any sound reason for existence. In the southern part of this Presidency there are many municipalities of ludicrously insignificant dimensions, and one of them—I refer to Savé in the Sholapoor district—raised Rs. 88 a year and spent almost the whole of that amount in maintaining a puttawalla! I have referred to this splendid municipality upon a previous occasion when it was proposed to make municipalities pay the cost of their police, but I do not think the reference to it again will prove uninstructive. I think it would be very desirable if municipalities of that sort, which really do not deserve the name of municipalities, were done away with and a much simpler method of conducting their affairs adopted. In the Burmah Municipalities Bill it is provided that municipal institutions are not to be extended to any place which has less than 5,000 inhabitants, and, looking to the population in various parts of this Presidency, I should be very glad to know that the Bill now before us will not be held to apply to any place with a less population than 4,000. I cannot say that I think the possession of municipalities makes men either wiser or better. Certainly, judging by the example of Bombay during the late municipal elections, the possession of electoral rights by the citizens does not seem to have produced that amount of public spirit and that desire for representation which it was supposed would be engendered by the clauses of the Municipal Act. It may be that in the mofussil people may rejoice to be governed under the 96 sections

The Advocate-General desires the application of the Honourable Mr. Gibbs Bill only to municipalities with a population of not less than 4,000 inhabitants; approves of the abolition of certain small municipalities, but objects to grouping them in one municipality, a process which, he thinks, would be very inconvenient.

provided in this Bill; but I really feel great misgivings whether the municipal institution which is disclosed in this measure, and which is framed in much stricter terms than that which is offered by the Supreme Council to other parts of India, will really prove a boon to the people. At all events, I hope that the operation of this Bill will be limited to much larger communities than some of those which enjoy municipal institutions at present. I have great doubts also as to the expediency of making Municipal Districts. Where there is a number of villages lumped together it is sure there will be a good deal of quarrelling in consequence of clashing interests. I believe that my views are somewhat conservative and old-fashioned in these matters, but I have always entertained doubts as to the advisability of extending municipal institutions to comparatively primitive communities. However, as the tendency of modern legislation in India is to introduce Western institutions in place of Eastern ones, I shall say no more at present about these doubts, but would repeat that I hope the application of the Bill will be restricted in the manner I have indicated.

The sanitation of certain scenes of jattras rendering it necessary for Government to have power to declare a Municipality in places which may not ordinarily have so large a population as 4,000.

The Honourable Mr. ROGERS—With reference to the remarks which the Honourable the Advocate-General made with reference to limiting municipal institutions to communities of certain numbers, I would point out that to adopt such suggestion would give rise to considerable inconvenience. In various parts of the country fairs or jattras are held, and there would be no way of providing for the proper conservancy of these places if the honourable member's proposal were adopted, because their populations are so fluctuating, that while they might be capable of being made into a municipality at one part of the year they could not at another. In Khandesh a certain fair is held annually where we have had to provide for the conservancy of three or four villages surrounding a particular temple, but if this measure were passed these villages might be made into a municipality so as to legalize the levy of certain toll and fees to provide funds for conservancy purposes. These matters, however, will be sure to be considered in Select Committee.

The Honourable Mr. MUNGULDASS—Sir,—I do not wish to say anything upon this measure until I hear what the large class of people who are affected by it have to say as to its provisions. However, Sir, there is some important information which I would like to possess, and I beg, under Rule 33 for conducting the business of the Council, that His Excellency will be pleased to order a return to be furnished to the members of this Council as early as possible showing the present amount contributed by municipalities throughout the Presidency towards the police and educational expenditure incurred in this Presidency; also a return showing the entire amount of the present police and educational expenditure incurred in this Presidency.

The Honourable Mr. RAVENSCROFT said that such a return could only be prepared if the honourable member distinctly left it to be understood that his request did not apply to the collection of the one-anna cess throughout the Presidency.

The Honourable Mr. MUNGULDASS said that he had no wish to be provided with the minute particulars which the Honourable Mr. Ravenscroft referred to.

His Excellency the President after some discussion consented to the Honourable Mr. Munguldass' request.

The first reading of the Bill was then agreed to.

The Bill read a first time and referred to a Select Committee.

The Honourable Mr. GIBBS proposed that the Bill be referred to a Select Committee consisting of—

The Honourable Mr. ROGERS,
The Honourable Mr. MUNGULDASS NUTHOOBHOY,
The Honourable Mr. RAVENSCROFT,
The Honourable the ADVOCATE-GENERAL,
The Honourable GUNPUTRAO TATTYA SAHIB PUTWURDHUN, and
The MOVER,

to report on the 15th September; the report to be printed in Gujrathee, Marathi, and Canarese.

The motion was agreed to.

In answers to questions from honourable members,

The Honourable Mr. GIBBS said that the Bill was not intended to be made to apply to Sind or Aden.

The Honourable Colonel Kennedy moved the first reading of Bill No. 9 of 1873 (a Bill to amend Bombay Act No. II. of 1864, providing for the periodical survey of Steam Vessels and to provide for the examination of Engineers of Steam Vessels). He said—This is a short Bill to amend the defects found to exist in Bombay Act II. of 1864, and it may be said to have the same object in view as the Bill relating to the periodical Inspection of Boilers and Prime Movers which has been introduced by the Honourable Mr. Rogers, viz., that is to prevent accidents. One of the chief defects in Act II. of 1864 was that we had no power to exempt from examination vessels which were provided with certificates from the Board of Trade. The Bombay Government and the Board of Trade have had some correspondence upon this subject, the result of which is that in section one we have declared that "no steam vessel holding a certificate granted by the British Board of Trade shall be liable to be surveyed as long as such certificate remains in force and valid unless such steam vessel or the machinery belonging to the same shall, subsequently to the issue of such certificate, have sustained injury or damage or been found unseaworthy or otherwise deficient. The next defect in the old Act is that it gave no power to appoint ports of survey outside the port of Bombay. This defect we propose to remedy by Section 6 of this Act. A third defect was that there was no provision for the proper examination of Engineers in charge of steam machinery on board ships. This defect also we hope to remedy by the Bill. It will be observed that the Bill gives power to the Governor in Council to direct inquiries to be made into the causes of explosion in ships. In framing this measure Bengal Act I. of 1868 has been very closely adhered to, and in fact it may be called a measure for introducing to this Presidency the laws on the subject which exist in

Colonel Kennedy moves the first reading of the Bill to amend Bombay Act No. II. of 1864, providing for the periodical survey of Steam Vessels and to provide for the examination of engineers of steam vessels.

Vessels to be exempted from examination which are provided with Board of Trade certificates.

Ports of survey to be appointed outside of Bombay.

Bengal. There is nothing more that I need say about the Bill. The principle of which is a very fair one, I think, and I now beg to propose that it be read a first time.

The motion was agreed to, and the Bill was referred to the same Committee as that which was appointed to consider the Honourable Mr. Rogers' Boiler Inspection Bill, with instructions to report on or before the 25th August.

The Bill read a first time and referred to a Select Committee.

The Honourable Mr. ROGERS asked an extension of time for the Committee appointed to consider the Village Offices' Bill. A number of petitions respecting that measure had been received which required careful attention.

Time for presenting the report of the Select Committee on Hereditary Village Offices' Bill extended.

An extension of three weeks was granted.

His Excellency the President then adjourned the Council until the 8th September 1873.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 17*th August* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Monday, the 8th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

Affirmation of Office, &c., taken by Colonel Anderson.

The Honourable Colonel W. C. Anderson took the usual affirmation of Office and declaration of allegiance to Her Majesty.

Papers presented to the Council.

The following papers were presented to the Council:—

1. Report of the Select Committee appointed to consider the "Bill for enabling Government to levy Tolls on Public Roads and Bridges in the Presidency of Bombay."

2. Report of the Select Committee appointed to consider the "Bill to provide for the periodical inspection and the management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay and within certain districts in the Presidency of Bombay."

3. Report of the Select Committee appointed to consider the "Bill to amend Bombay Act No. II. of 1864, providing for the Periodical Survey of Steam Vessels, and to provide for the examination of Engineers of Steam Vessels."

Mr. Rogers asks for extension of time to present the report of the Select Committee on the Hereditary Village Offices Bill.

The Honourable Mr. ROGERS, referring to the Report of the Select Committee appointed to consider the "Bill to amend the law relating to Hereditary Village Offices," said—I have to ask for further time on behalf of the Committee who are engaged with this report. We have lately had a new draft of the Bill made out which, although not differing from the principle of the original Bill, differs considerably in the definitions and actual words employed—in fact, it differs so much in this respect that it has been proposed to recast the old Bill entirely, or even to withdraw it and substitute the draft. Before, however, we can decide upon this course, it will be necessary for the Committee to compare the draft and the old Bill carefully,

Mr. Rogers alludes to the possible withdrawal of the original Bill and the substitution of a new draft Bill.

and it is to permit this to be done that more time is now asked for the preparation of the report. I think the Council might agree to grant us an additional fortnight.

His Excellency the PRESIDENT—Am I to understand that the Bill now before the Council is to be withdrawn?

The Honourable Mr. ROGERS—The extension of time is asked in order to give time to submit the new draft to the Select Committee, and obtain their opinion as to whether it would be advisable to withdraw the present Bill.

The Honourable the ADVOCATE-GENERAL—I understand it is the opinion of a great many of the revenue officers of the Presidency that the Bill should be made applicable to hereditary district as well as hereditary village officers; and it is this question probably which the Committee would chiefly have to consider if the new draft were submitted to them.

The Honourable Mr. ROGERS—That question has already been considered by the Select Committee, and so far as we have gone yet, we are not of opinion that it will be necessary to include district officers in the operation of the Bill.

His Excellency the PRESIDENT—I think that there are very grave objections to withdrawing the present Bill, and this ought not to be done, except in a case of extreme necessity. Since I have assumed the Governorship of this Presidency, I have been repeatedly told that there is the greatest need for speedy legislation upon this subject. Most of the Collectors have told me so. It appears to me that whatever shape the present Bill may assume there must be a very long discussion in this Council upon its details, no matter what the result of the deliberations of the Select Committee may be. Therefore I think it would be extremely undesirable to withdraw this Bill, as the Hononrable Mr. Rogers hints that the Select Committee may do. Such a course ought to be avoided, for to follow it would be practically to put the Bill out of this session altogether, notwithstanding that it is of such extreme urgency as it has been represented to be on all sides.

The Honourable Mr. GIBBS—I have seen the draft Bill and the original one, and I think the draft is much the more intelligible of the two. It is put forward in the form which Bills of this nature take in the Legislative Council of the Government of India, and being divided into parts it will be of much easier reference. The definitions in the proposed draft are also, I think, much more clear than the definitions in the old one. In a Bill which is designed to affect so many persons throughout the country, the simpler the form of the Bill the better; and if it is permissible for a Select Committee to recast a Bill which has been placed before them, I would prefer the Council to consider the new draft.

The Honourable Mr. RAVENSCROFT—I think there is one material difference between the two Bills, which is that the new one proposes to regulate district hereditary offices.

The Honourable Mr. GIBBS—If the Select Committee consider that the Bill to be placed before the Council should not apply to district officers, all they have to do is to leave out of the new draft Bill the sections which apply to these officers.

His Excellency the PRESIDENT—Are the proposed alterations so extensive that they so completely overthrow the old Bill as to prevent us from looking at them simply as amendments.

The Honourable the ADVOCATE-GENERAL pointed out that if the Bill was to be a new one it would require to be published in the *Government Gazette*.

His Excellency the PRESIDENT—In that case nothing could be done with this Bill until next year. I think we might have the Bill and the Report from the Committee within a week from this time, and in another week we shall take them up for consideration. If they have to be translated, this might be done after the discussions and amendments in Council, so that the Bill would go forth to the public in the state in which it would be proposed to read it a third time. We must not stand still with this measure, and I think that what I have suggested would save a great deal of time.

The Honourable Mr. MUNGULDASS said that if the third reading of the Bill were postponed until the meeting of the Council in Bombay, he would have no objections to the course proposed by His Excellency.

His Excellency the PRESIDENT had no objections to the course suggested by the Honourable Mr. Munguldass.

The Council then agreed that the Bill should be prepared in English on or before the 16th instant and that translations should not be published until after the discussion.

The Honourable Mr. ROGERS said that as the Honourable Mr. Ravenscroft had to go to Bombay on urgent business it would be inconvenient for him to attend the meetings of the Select Committee upon the Salt Bill. He therefore begged to propose that the Honourable Colonel Anderson should be placed upon the Committee instead of the Honourable Mr. Ravenscroft.

This was agreed to.

The Secretary then presented the Report of the Select Committee appointed to report on the petitions relating to Bill No. 7 of 1870 (a Bill for the Regulation of Burial Grounds and Burning Grounds and places for the exposure of the dead in the territories subject to the Government of Bombay, without the limits of the city of Bombay), and a petition from the Poona Survajanik Subha, dated 12th August 1873, on the subject of the Burial and Burning Grounds Bill.

Mr. Rogers moves the third reading of the Bill to regulate Burial Grounds, Burning Grounds, and places for the exposure of the dead.

The Honourable Mr. ROGERS, in moving the third reading of the Burial Ground and Burning Ground Bill, said :—Sir, I beg to propose the third reading of Bill No. 7 of 1870. The number attached to it shows how long it has already been under consideration, and I dare say it is within the recollection of several members of this Council that it was thoroughly discussed last year by the full Committee of the Council, and by the Select Committee which went through it clause by clause, with the effect of several modifications being made upon it—such modifications as in the opinion of the Committee of the Council did away with all the objections that had been urged against the measure. Shortly afterwards a number of petitions were received from various bodies of the native community against the Bill, and at the commencement of this session it was considered expedient to send these petitions back to the Select Committee, to be considered in detail. The Select Committee have done so, and the result is shown in the Report which has just been presented to the Council. As stated in the petition of the Poona Survajanik Subha, three (native) members of the Committee were in favour of the chief allegations against the Bill contained in the petitions, whereas the two European members, the Honourable Colonel Kennedy and myself, were in favour of continuing the principle of the Bill with certain modifications. The chief reason that appears to me to have been urged against the third reading of the Bill hitherto is that it is unnecessary, because the

provisions of the Penal Code already give sufficient powers to District Magistrates to regulate burning and burial places and places for the exposure of the dead. This matter was considered when the Bill was first brought before the Council, when the subject arose from a case which had just taken place before the Magistrate at Tanna. The case was referred to the Honourable Mr. White, who was then Advocate-General, and he pointed out a certain procedure to be taken by the Magistrate, but at the same time expressed a doubt whether that procedure would be upheld on an appeal to the High Court. His advice was that the Magistrate should issue an injunction according to the terms of the Criminal Procedure Code. Had there been no doubt about the correctness of this mode of procedure, of course, there would have been no necessity for further legislation on the subject, but seeing that there was a doubt the Committee thought it advisable to proceed with the measure. In the statement of objects and reasons attached to the Bill, which are under the Honourable Mr. Mansfield's signature, the Council will find a further assurance of the necessity for the Bill. Another objection urged against the Bill is that it would interfere to some extent with the religious customs and prejudices of the native community. It is improbable that the Government of India would agree to any violation of the proclamation of Her Majesty to the inhabitants of India, and yet we obtained its sanction to introduce this Bill. I need hardly say that the local Government never had the slightest idea of interfering with any such customs or prejudices; its sole object was to provide against injury to human life in consequence of burial and similar places being in such a position as to interfere with health, and to provide means by which remedies might be applied. It will be remembered that when the Bill was in Committee last year provisions were introduced by which all undue interference would be put a stop to. In the Bill, as it was first drafted, the Magistrate, I believe, was authorised to close burial or burning grounds, but the Committee, to prevent any inconvenience arising from the exercise of this power, altered the Bill to the effect that no burying or burning ground or place for the exposure of the dead should be closed until a new one was provided; and further, that in case any portion of the community should be found not to be in a position to go to the expense of providing a new place, the local or municipal funds should provide means for the purpose. The present Municipal Act (Act XXVI. of 1850) which applies to the mofussil generally, contains no provisions by which any such places can be regulated, and, as I have said, the provisions relating to the subject in the Criminal Procedure Code are very doubtful. Such provisions are contained in the present Bombay Municipal Act; they were also contained in the Act which that one superseded; but if any honourable member will take the trouble to compare the provisions in that Act with those in the Bill now before the Council, I think he will agree that the latter are far the more lenient and suitable, inasmuch as every precaution has been taken in them to prevent undue hardship to any section of the community. The Act will not be extended except as Government may direct, and I think that the Council may take it for granted that it will take no measures which will in any way affect the liberties or religious convictions of its subjects. With these remarks I beg to propose the third reading of the Bill.

The Honourable Mr. NARAYAN VASUDEVJI—Until the other day I was under the impression that, as considerable time had elapsed since the introduction of this Bill, it had been abandoned on the score of its inexpediency. As however the honourable member has thought fit to bring it on for the third reading now, I must solicit your forbearance in allowing me to state a few of the objections I have against a measure

Mr. Narayan Vasudev objects to the Bill because of its tendency to interfere with the customs of certain sects.

which, in my opinion, directly interferes with the customs and usages of the Hindoo, Mahomedan, and Parsee community in contravention of the repeated pledges of Government. It is a well known fact that amongst the Hindoos certain persons who have renounced worldly concerns and entered into a life of asceticism obtain certain privileges of sepulture not enjoyed by the common people. The Swamies, Sanyasis, Mahants, and Gosais, who are the gooroos or spiritual guides of the people, come under quite a different category from the ordinary multitude. They must be buried, not burnt, in the places, muths as they are called, suitable to their rank or designation. Any interference therefore with the funeral rites of such persons is to be deprecated. Take for example the case of the Shankeracharya, who is well known to be the great gooroo or religious head of the entire Marathi Hindoo population. By this Bill, his corpse must be disposed of in the ordinary burial or burning ground, unless the sanction of the Governor in Council can be obtained to his interment in the proper muth, temple, or place of worship. To render the sanction of Government necessary in such a case is simply to deny, in the particular instance, those rights of sepulture which the holy seer of religion is entitled to by the law and usage of his country. According to our usage his corpse must be disposed of within a few hours after death. None of his followers can take food or water whilst the corpse is above ground. The climate is such that decomposition sets in within say eighteen to twenty-four hours, or even earlier, according to the nature of the disease resulting in death. And yet it would be a crime under this Bill to bury him with the solemnity and in the consecrated place due to his position, according to the practice observed and accorded for centuries past in the case of his predecessors! The simple announcement that such an interference with the corpse of the great Shankeracharya is contemplated would, to use the mildest term, be repulsive to the entire Hindoo population. With regard to the Mahomedan community, the consequences of interference with the rites of sepulture which they are wont to bestow upon their Syeds, Peerjadas, Moollas and the like, who are held in special veneration, might be even more disastrous. Hence it would, to say the least of it, be politic to respect the prejudices of the people, whether Hindoo or Mahomedan, in a matter of this kind, wherein their dearest sympathies are bound up with deep religious feelings. It may be replied that the honourable mover of the Bill has shown his readiness to enact an exemption from the operation of the Bill in favour of Gosais and old Mahomedans, including Borah families, but I submit that this does not meet the cases to which I have just referred. Every caste of the Hindoos has a gooroo of its own, for whom this privilege will be claimed, and therefore the concession must be more widely extended than would seem to be contemplated by the honourable member in charge of the Bill. It may not be out of place for me to remark in passing, that the Honourable Mr. Tucker, who was in charge of this Bill last year, led me to believe that one of his principal reasons for urging its adoption was to put a stop to the practice of the Gosais burying their dead in populous parts of the town. I therefore submit that, if nothing else, the concession now offered by the honourable member is fatal to the principle of the Bill.

His Excellency the PRESIDENT—The honourable member refers to the principle as enunciated by the Honourable Mr. Tucker, but we have yet to determine the principle of the Bill here.

The Honourable Mr. NARAYAN—I am assuming the principle of the Bill to be that which the Council affirmed at the second reading. A similar Bill for the town and island of

Bombay was in 1863 introduced into this Council by the Hon'ble Mr. Tristram, who had to withdraw it owing to the opposition which the measure met with. Again in 1864 Sir Cecil Beadon, then Lieutenant-Governor of Bengal, being of opinion that a certain Hindoo burning ghat, at Nimtolah in Calcutta, was dangerous to public health on account of its close proximity to the town, ordered it to be closed. The Hindoos then memorialized the then Secretary of State, Sir Charles Wood, now Lord Halifax, who, notwithstanding the support which the measure had received from the Viceroy, not only ordered a peremptory restoration of the ghat but strongly deprecated the introduction of any measure likely to create dissatisfaction among the masses of the people. Nearly the whole of the English press condemned the conduct of the Bengal Government, and the subject was brought forward in the House of Commons by Lord Stanley, now Lord Derby, and in the Upper House by the late Lord Ellenborough. From a reply which the able Under-Secretary of State, Mr. Grant Duff, gave to an honourable member, Mr. Stapleton, the other day in the House of Commons, it is evident that the policy of the Home Government towards their Indian subjects in these matters has not been changed. I am not aware that the cemeteries throughout the mofussil have become so dangerous to public health as to call for legislative interference, and even if they were so, I submit that the new Code of Criminal Procedure which came into operation at the beginning of this year provides ample remedies for the abatement of local nuisances. I should be sorry to oppose any measure which may tend to ensure the good of the people; but I am strongly impressed with the conviction that if this Bill is enacted into law it is likely to create a great amount of irritation and discontent among the masses of the people. I therefore feel compelled to oppose the measure, and would earnestly invite the Council to reject it.

Sir Jamsetjee Jejeebhoy objects to the Bill, and objects to the power being given to Collectors to interfere in burial, burning, or exposing places for the dead.

The Honourable Sir JAMSETJEE JEJEEBHOY—I have no hesitation in stating that the different sections of the native community would hail the withdrawal of this Burial Bill as a very considerate concession to their ardent wishes and anxious fears. The people in every part of the country, I believe, look upon this measure with much alarm. I conceive that no better proof of this fact can be had than that given by the number and contents of the petitions before His Excellency. One very important objection is that this Bill gives a very large discretionary power to the Collector and other Government officials who may be invested with power under this Act. The exercise of this power may often prove most mischievous to the interests, feelings, conveniences, and comforts of a whole town or village. Suppose the Collector chooses to appoint a place for burial or burning at an unreasonable distance, say three or five miles from a village or town, or away from a river-side or sea-shore or a place with a well or tank, which the Hindoos or Mahomedan population desire for such purposes to suit their ablutions and religious rites, who can come to their rescue? It is all very well to say that they may apply to Government; but every body knows how difficult it is for the poor and ignorant people to pass a petition through all the regular channels and ultimately to reach the Government; or again, even if they did reach Government, how hard is it for them to make head against the doings and decisions of the Collector? The vesting of such practically unlimited power in an individual officer is, especially to the Parsee community, a source of singularly great anxiety and trouble, for they cannot be sure when it will please the Collector to close their Towers of Silence or how long they will be allowed to hold them on. These Towers are well known to be works of very

costly construction and consecration, and no power ought to be given to any official which might be lightly or inconsiderately exercised. I am persuaded also that the religion of other classes of the community will be affected by the provisions of this Bill—I mean the Hindoos and the Mahomedans. It is manifest that according to their religious precepts and practices they are required to bury their dead under certain circumstances, within the precincts of a muth or mosque, and the tombs so erected themselves are regarded as shrines. About the end of last year a case came before the High Court and was published in the newspapers of the day, from which it appears that the Collector and Magistrate of Dharwar had issued a general order to the effect that as it was probable that the health of the community would be affected by the continuance of the practice of burying the dead in muths and mukans (shrines and mosques) certain places had been marked off where the different castes might burn or bury their dead, and that all burning and burial was to be performed at these particular spots from the 1st June 1869 on pain of punishment. There was nothing whatever to show that the existing burial places had proved a nuisance and injurious to the health of the neighbourhood, or that there was danger of such consequences ensuing, only the Collector and Magistrate thought they might ensue. The District Court, therefore, in an action against the Collector and Magistrate by some of the people of Dharwar set aside the general order I have mentioned. The Judge remarked—"That the evidence for the plaintiffs conclusively proved that their people had exercised the right from time immemorial of burying in mosques and muckans. It is also shown," added the Judge "that it is considered among the Mahomedan community to be a spiritual advantage to be buried by the side of their ancestors; and that an universal belief exists that the dead derive great benefits by being laid within the sound of the prayers offered up daily at the mosques and muckans. The order therefore extinguishes a right which the plaintiffs' caste has always enjoyed. It deprives plaintiffs of a cherished privilege and of a benefit which their religion teaches they would participate in after death." The High Court upheld the judgment of the District Court. This case shows at once how dangerous it is to give large discretionary powers into the hands of individual officers, specially in matters affecting religion, and not only that, but that this Bill trenches directly upon the religion of the people. This was shown there by reliable sworn testimony. Upon the deepest consideration that I have been able to bestow upon this Bill, I am convinced that it would be a blessing to the people to withdraw this Bill altogether rather than proceed with it. It contemplates nothing like giving a voice to the people in the selection, or the ceasing or continuing of their burial or burning places. No such general necessity has arisen as calls for the promulgation of such a measure. No case has been made out to show that the existing laws for the suppression of nuisances is, and has proved, so defective as to cripple the hands of the district authorities. Nothing, indeed, appears to have occurred to justify the enactment of a special law giving extraordinary power to individual officers to meddle with matters which are cherished by the people as most dear and sacred. The general voice of the people is against the enactment being introduced; and I trust His Excellency will deem it right to listen to it. The Bill as it stands is certainly calculated to operate, except when worked out by very discreet, mild, and forbearing officials, in a most harsh and oppressive manner. In the hands of an over-zealous or impetuous official it will prove a most powerful engine for creating immense mischief and discontent. A reference to chapter 39 of the Code of Criminal Procedure (Sections 518 to 529) will show that it contains abundant provision for the removal

of local nuisances; and gives the party proceeded against the opportunity of obtaining a trial by jury, or of showing cause in a judical manner against an order by a Magistrate for the removal of a nuisance. This Bill contains nothing of the kind: it gives the party proceeded against no voice of any kind; whilst the supreme Council in the matter of the most ordinary local nuisances show such deference to private rights and private feelings and such a desire to deal out even-handed justice between the public on the one hand and the private individual on the other, this Council is asked to entertain a Bill which does not contemplate any judicial proceeding of such kind at all, in respect of property of the most cherished kind—connected with the most sacred and religious performance of the people. Considered from every point of view, therefore, this Bill appears to me fraught with serious evil, and I trust his Excellency will be pleased to withhold his countenance from it.

The Honourable Mr. MUNGULDASS NATHOOBHOY—SIR,—After what has been said by the two honourable members who preceded me, I would only say that I concur with what they have stated; and in addition to the reasons given by them I would submit that the District Municipal Bill which is now before the Council makes up every deficiency, if any, in the power of the authorities to prevent burial grounds and places for the exposure of the dead from becoming a public nuisance in cities and towns. It is needless for me to say that such a measure is not required for villages and hamlets. I therefore hope that in this kind of legislation, which is so intimately connected with the religion of the people, the Honourable Council will not persist in carrying out a measure against the unanimous opinion of all the native members.

His Excellency the PRESIDENT—I take it for granted that the honourable gentlemen who have just spoken do not for a moment think that Government has the slightest wish to intrude upon their religious feelings or customs. Of the urgent necessity for this Bill I am not so well able to speak as other members of this Council, because it was introduced before I came to the country. The honourable mover has explained to the honorable gentlemen the necessity for the measure: he has also pointed out that the discussions of last year were the means of certain alterations being made upon it to check the injudicious exercise of powers granted by it. As the Bill originally stood, the Collector had absolute power to refuse or grant a license for a place for the reception of the dead, but that power has since been made subject to the general control of Government. And, again, it was declared that the Bill should not come into operation in any part of the country without the direct sanction of Government. These concessions show that Government has no desire to oppress any portion of the community by this measure. It remains to be seen whether any further concessions can be made in order to meet the objections raised to-day. One of the objections prominently brought forward appears to me to be with regard to the power of survey and measurement of places for the exposure of the dead mentioned in the Bill. It has been alleged that this power if exercised would be a violation of the religious views of the Parsees, inasmuch as the very touching of a Tower of Silence by a stranger amounts to a pollution of it. But for myself, I must say that I do not think this is a serious objection, because although we may retain the power of measuring and surveying, there is no necessity whatever for touching the building to be measured or even for going near it at all. I can imagine no necessity for a Collector touching a Tower of Silence at all. If any honourable members are still afraid of this power, it can be distinctly stated in the Bill that such places are not to be touched. Another objection

His Excellency the President considers that the Bill may be altered so that certain burial customs may not be prejudicially interfered with.

to the Bill is that it will prejudicially affect the sacred individuals of the various castes. Would not the views of the honourable gentlemen who oppose the Bill be met if we were to allow the burial of these sacred individuals to continue according to the manner prescribed by their religion, Government only retaining power to regulate the depth and the description of graves in which they must be placed? That might be more fully laid down in the rules which are to be published by Government, and copies of which may be sent to the managers of places for burning, burying, or exposing the dead. I can see no violation of religious feeling in that direction if this proposal were carried out. It has also been objected to the Bill that the Collector may choose a new burial place without the slightest reference to the views or necessities of the community. But I can see no reason for the Collector not being compelled to consult first with the local or municipal committees of a place, and then come before Government if a settlement of the case cannot be obtained. Do this, and I cannot see how any injustice will be done to any part of the community. A question has been raised whether it would be better for Government to regulate burials in cases of necessity. Looking to the extremely delicate nature of this measure and the extent to which people's feelings are concerned, I am inclined to think that it is better that Government should maintain this control in its own hands rather than give it to a divided authority in the shape of a municipality.

The Honourable Mr. GIBBS was about to address the Council, when

A question of order raised.

The Honourable Mr. BYTHELL raised the question of order whether amendments of which notice had been given should not be discussed before the debate on the third reading, because after the Bill had been read a third time, it appeared to him that subsequent discussion of amendments would be irregular.

The Honourable Mr. GIBBS thought that a discussion upon the motion for the third reading first and a discussion upon amendments afterwards was the correct course, because if the motion were rejected then there would be no necessity for discussing amendments.

The Honourable Mr. BYTHELL recalled the cases of the discussions on the Bombay Municipal Bill and the Port Trust Bill. On these occasions amendments were discussed first and then the Council proceeded to discuss the question whether the Bill should be read a third time or not.

His Excellency the PRESIDENT thought that the mode of procedure now being followed was right, and the question dropped.

Mr. Gibbs gives examples of cases of insufficient burial in the Mofussil, to show the urgent necessity for the Bill.

The Honourable Mr. GIBBS—There seem to me to be two questions to consider—first, whether a Bill of this description is necessary, and, secondly (the previous question being decided in the affirmative), the plan best adapted to carry out that measure so as to injure the feelings of the general community as little as possible. With regard to the first question, the members of the Executive Government, before I had the honour of being a member, doubtless proceeding upon sufficient reasons, declared that the Bill was necessary; and, guided by the experience which personally I have had in various parts of the country, I must entirely concur with the view of the matter taken by these gentlemen. I well remember on one occasion, when I was in the neighbourhood of a very holy place—Sooklatirth on the Nerbudda, within the shadow of whose temple it is considered extremely beneficial to be burned, I came upon a funeral pyre. The fire was

extinguished, but the head and legs of the corpse were left lying unconsumed by the river-side, waiting for the rising waters of the Nerbudda or the alligators to carry off. That sight was not an agreeable one. A friend of mine informed me a short time ago that he was one day riding in the vicinity of a native village, when his horse seemed to make a false step or to put his foot into a hole in the ground—but on looking closely he found that his horse's foot had actually sunk into a decomposing corpse buried just beneath the ground. Such circumstances tend to show the necessity for some measure to regulate the burying and burning of natives in the mofussil of this Presidency. I mentioned these two facts to the Honourable Mr. Munguldass. He was very much shocked, and could hardly believe them,and told me it was quite contrary to religion to burn or bury in such an imperfect manner, and admitted such irregularities should be prevented. I suggested that perhaps it was his want of knowledge of the manner in which such things are conducted in the mofussil that made him oppose this Bill as he did. As to the general principle of such Bills, I may add that I remember when in England it was considered advisable to prohibit intermural interments, and that by the measure the feelings of a great many elderly people of the day were very much injured. I know of relations of my own who felt deeply the prohibition which prevented their being buried in the vault where those near and dear to them lay. The feelings excited then in England are very similar to those which are now commented on by honourable members, but just as the suppression of intermural interments at home was required as being necessary to the public health, so regulations regarding the burial, burning, or exposure of persons in this country are now, with our advanced civilization, regarded as not only as very wholesome but absolutly necessary. It is, I think, the general opinion that steps of some description ought to be taken in the matter; even the petitions do not go so far as to say that no steps at all are needed. I look upon this Bill then as one of the necessary measures which improved sanitation in India requires. I admit that the subject is a very delicate one to handle—one requiring great care to be taken with it in order that the feelings of the natives may be injured as little as possible. For these reasons I agree with His Excellency that a special Bill is better for dealing with the subject than leaving it to the less careful consideration which it would receive if mixed among the other matters legislated upon in the Mofussil Municipalities Bill. I trust that the people of this country, and especially the native members of this Council, have sufficient confidence in the Government to believe that it has no wish to hurt the religious sympathies of the people, and that it will take the greatest possible care to prevent injury to the feelings of any portion of the community. His Excellency in Council will have power to make rules for the purposes of the Act and to limit its extension save in fit places, and I feel certain that Government will frame those rules in such a manner as will meet the exceptional cases which have been mentioned to-day. With regard to the burial of the heads of religious and other sects, the honourable gentleman who advocated their cause so eloquently confined his advocacy to one particular sect of Hindoos; but he omitted to mention that Gosais hold as peculiar views upon the subject of burial as Swamees do, while the majority of them are traders and money lenders and have just as much to do with the religious education of their countrymen as I have. Under these circumstances, surely it could do no harm to legislate for the proper disposal of the bodies of such persons, since no religious feeling could be excited thereby. However, these matters may safely be left to be regulated by the rules which His Excellency the Governor in Council will prepare. With regard to Towers of Silence, I do not think

there can be any objection to what is laid down concerning them in the Bill if the understanding about leaving them untouched, which was referred to by His Excellency the President, is agreed to. In Bombay, I am, I believe, the nearest resident to the Towers of Silence, and I must say that I have not had the slightest inconvenience or annoyance from them. There is no occasion to touch a dokhma—that is the actual tower—at all, because I believe it is a rule among Parsees that dokhmas must be placed within an enclosure of thirty peculiar measures of space measured from the base of the tower wall, and it will not offend their religious scruples if a measurement or survey were made of this outer enclosure, which could be done from the outside—and this is all that is needed. With regard to Mahomedans, I am aware that a very great desire exists among them, especially among Syeds and the heads of religious sects, to be buried in certain places, but as there are not many heads in each community or many deaths in each year, the occasional burial in the way they desire need not, if properly arranged, be objected to upon sanitary grounds. For these reasons, I beg to support the motion for the third reading of the Bill.

The Honourable the ADVOCATE-GENERAL—Sir,—The very strong opinions expressed by the honourable Native members of this Council ought to make us pause before we pass this Bill. It is not a measure which will effect all that the promoters of it desire. A case of imperfect cremation cannot be dealt with under this Bill. The Bill relates in the first place to the registration of places of interment, exposure, or cremation, and the licensing of them, and in the second place it refers to punishments for the exposure of corpses in places not so licensed. The Council will observe, however, that it does not regulate the internal arrangements of a burying or burning ground; and irregularities could only be prevented under the section which provides that unless the place is licensed no burial shall take place. Now, on consideration of the legal enactments which already exist, I would ask whether there is any absolute necessity for this Bill. Under the Code of Criminal Procedure any nuisance—that is, any state of things which a Magistrate may consider likely to occasion danger to human life, health, or safety—may be dealt with by the Magistrate under certain conditions laid down in the Code; and as the object of forbidding the disposal of dead bodies in places other than those licensed and registered under the Act is to prevent those places which are so used from being dangerous to health, it is perfectly clear that to a certain extent what is contemplated by this Bill is already provided for by the general law. If any other nuisance is occasioned which is likely to produce danger to human life, health, or safety, and the Magistrate issues an order for the stoppage of such nuisance, the person affected must obey or claim the interference of a jury; and I confess that this provision in the general law I should like to see followed in this Bill. I think that in the delicate matters treated of in this Bill the community should not be placed in a worse position than they are under the general law of the country with regard to other alleged nuisances. I think that the Magistrate has powers under the 518th section of the Criminal Procedure Code to make the necessary salutary orders regarding improper burial, burning, or exposure of a body. In case of any person whose friends desired his interment in any particular locality, or muth, or place of that description, no doubt there might be difficulty in summoning a jury immediately, but in the rare cases likely to arise a jury might be empannelled in the same way as a Coroner's Jury.

The Advocate General thinks the Bill unnecessary in consequence of the state of the present law regarding the powers of Magistrates to remove nuisances.

The Honourable Mr. NARAYAN observed that under the Code the Magistrate has summary powers.

The Honourable the ADVOCATE-GENERAL—That is if he considers the cause shown to be sufficient. I observe that according to the 26th section of the Municipalities Bill, which is in charge of the Honourable Mr. Gibbs, one of the objects which Municipalities will have to attend to is that of regulating places for the disposal of the dead and the removal of and providing of sites for the same. Therefore, considering this fact, and the existing state of the law, I repeat that I am extremely doubtful whether there is any necessity for this Bill. My own opinion inclines to the belief that there is no such necessity. As the matter is one which has caused a great deal of excitement among the Native community, I do not think the Council or the public would gain by the passing of this Bill until it is shown that the existing legislation or that which is contemplated regarding municipalities generally, will not be sufficient to provide all that is wanted. With regard to what the Honourable Mr. Rogers said about the opinion of the Honourable Mr. White, who was represented as being doubtful about a conviction being upheld by the High Court, I must say that I read his opinion as in favour of the view that a conviction for disobedience of a Magistrate's order in cases of this kind would be upheld by the High Court.

His Excellency the PRESIDENT—I think that the arguments of the Honourable the Advocate-General should induce us to go on with the Bill. He says that under the Code a Magistrate has already powers to do what this Bill contemplates. Thus any Magistrate entertaining extreme sanitary views may step in and prohibit as a nuisance the burial of any person, even though he might be considered the most holy man in all the surrounding district. What is to be done instead, if the Magistrate does so nobody knows—in fact, the whole thing is to be left to chance! The whole populace of a district is to be thrown by a Magistrate into a violent state of excitement for which there is no remedy by law! This seems to me to be a direct argument pointing out the propriety of our legislating in a moderate respectful way such as this Bill proposes. Let us define a proper course to be followed, and not leave such matters to the final decision of Magistrates, and by all means make the Bill as little offensive as possible.

The Honourable Mr. NARAYAN—Under the present law, if a Magistrate does not make an order which is reasonable and proper, he leaves himself open to an action for damages.

His Excellency the PRESIDENT—It would be very difficult to prosecute him under the circumstances.

The Honourable Mr. NARAYAN—Perhaps His Excellency would allow me to remind the Honourable Mr. Gibbs of the observation he himself made when this Bill was before Council the other day. From the official report of the proceedings which I have now before me it appears that "he thought that the contemplated Mofussil Municipalities Bill would render this Burial and Burning Ground Bill unnecessary." In an able speech which the Under Secretary of State, Mr. Grant Duff, made in the House of Commons a short time ago, he said that India was always in a certain sense in a critical situation, for the rule of two hundred millions of men by a hundred thousand aliens was and must for ever continue a matter of extreme difficulty. By passing unnecessary and vexatious measures of this sort the affections of the people are alienated and dissatisfaction created.

The Honourable Mr. GIBBS—I am aware that I said what the honourable member has quoted, but further consideration has induced me to come to the opinion that a matter so important as this is should be specially dealt with.

The Honourable Colonel KENNEDY expressed himself in favour of Native communities being permitted to have a voice in cases where the Collector desired to take action.

The Honourable Mr. MUNGULDASS said that under the Bill the whole power was given to the Collector. He would prefer the power to be vested in the Municipalities affected.

The Honourable Mr. GIBBS remarked that it was a peculiar fact that most of the petitions received against the Bill were from Parsees.

The Honourable Mr. NARAYAN—The Council would have had more petitions, but it refused to receive vernacular petitions from the mofussil. These petitions were sent back to the senders, and their attention was drawn to Rule 41 of the Council rules, which sets forth that vernacular petitions must be accompanied by translations. If such petitions as these are returned, the people have no remedy, because translators are not to be easily had in many parts of the mofussil.

The Honourable Mr. ROGERS—Before the motion for the third reading is put, I would like to add a few words to what I have already said. A great deal has been said about the powers contained in the new Mofussil Municipalities Bill which is about to be enacted; but honourable members must have forgotten that that Bill is not to be of universal application, but will only apply to such places as Government may think require it. Besides, what particular matters they have opposed in this Bill, they would also oppose if they were to find a place in the Municipalities Bill.

The Honourable Mr. NARAYAN—Certainly I would not adopt all the sections in this Bill if they were in the Mofussil Municipalities Bill, but I might support a provision in it giving authorities certain powers in the regulation of burying grounds.

The third reading agreed to.

After some further discussion the Honourable Mr. Rogers' motion for the third reading of the Bill was put to the vote and carried :—

Ayes—7.	*Noes*—5.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable the ADVOCATE-GENERAL.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NATHOOBHOY.
The Honourable J. GIBBS.	The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable J. K. BYTHELL.	
The Honourable Colonel W. C. ANDERSON.	

The Council then proceeded to consider the Bill in detail.

The Honourable Mr. NARAYAN read the motions of which he had given notice regarding Section 1, and which were as follows :—

That the words "or if such owner or person fail to register the same within such period then" be inserted between the words "same" and "by," occurring in lines 19 and 20 of Section I.

That the words "after the expiration of the same term," occurring in lines 21 and 22 of Section I. be omitted, and the following words inserted in their stead :—"After the re-

gistration as aforesaid of such burial-ground, burning-ground, or place for the exposure of the dead."

That the words "except as provided in the Section next following" be inserted between the words "term" and "wilfully," occurring in lines 22 and 23 of Section I.

After a brief discussion, His Excellency the PRESIDENT suggested certain alterations, and finally the section was submitted in the following shape by the Honourable the Advocate-General :—

"The Collector of a district or other officer specially appointed by Government for the purposes of this Act may, if he think fit, cause a survey and measurement to be made of any burial ground or burning ground or other place for the burial or burning of the dead, and every place for the exposure of the dead, existing at the time this Act shall have come into operation, as hereinafter provided, shall, within three months after this Act shall have come into operation, be registered by the owner or the person having the control thereof, or if there be no owner or person authorized to control the same, or if such owner fail to register the same within such period, by order of the Collector or other officer as aforesaid in a book to be kept by him for the purpose : and whoever after the registration as aforesaid of such burial ground, burning ground, or place for the exposure of the dead, buries, burns, or exposes, or causes, or procures, or suffers to be buried, burned, or exposed any corpse in or on any ground other than such registered burial or burning ground or place for the exposure of the dead, shall be liable to a penalty not exceeding Rs. 100 for each offence."

The Honourable Mr. NARAYAN remarked that the effect of these amendments would be good for this reason, that in the case of places of burial or exposure belonging to private individuals, if these persons neglected to register, the Collector would be able to do so, and thus the community would not suffer.

The section was then passed as amended.

The Honourable Mr. NARAYAN's next motion was considered— "that the following proviso be added to Section 2 :—Provided that nothing herein contained shall be held to apply to the case of any person who by reason of his belonging to a religious order is entitled to be buried in a sanctified place."

The Honourable the ADVOCATE-GENERAL asked if the first part of the section as it stood was meant to apply to temples, mosques, or agiaries. He did not think it was, but nevertheless the words used gave some reason for the Honourable Mr. Narayan introducing his amendment.

His Excellency the PRESIDENT said he thought it was only Christian places of worship that were intended to be referred to.

It was then agreed to place the word "Christian" before "worship" in the 7th line, and to add in line 26 "such special sanction or" before "license," and the Honourable Mr. Narayan withdrew his amendment.

The Honourable Mr. NARAYAN brought forward his next motion—"That the words 'if after such inquiry as may be deemed necessary it shall appear to Government that,' occurring in lines 1 to 4 of Section 3 be omitted, and the word 'whenever' substituted." His reason was that already the Supreme Legislature recognised the right of private in-

dividuals to be heard in matters concerning them, but as the section now stood nobody had any guarantee that the people would be consulted at all by Government.

His Excellency the PRESIDENT concurred that the words objected to by the Honourable Mr. Narayan were vague.

After some discussion the words from the beginning of the section to "that" in the 4th line were struck out and the following substituted: "Whenever it shall appear to the Collector or other officer as aforesaid."

The Honourable Mr. NARAYAN moved his next amendment, which was as follows:—

That the following proviso be added to Section 3 after the word "relates," occurring in line 21:—

"Provided that such notification shall not be issued in towns, villages, or suburbs, in which Act XXVI. of 1850 has not been introduced, unless the Collector or other officer as aforesaid shall have previously issued a proclamation to the inhabitants, or to the class or community who use such place, ground, church, or place of worship for the purposes aforesaid, notifying that it is intended to prohibit such use of the same, and calling upon them to attend at a place and upon a day specified, to show cause why the order of prohibition as aforesaid should not be made, and shall have heard the cause shown by the parties concerned or their representatives, and shall have transmitted the record of his proceedings with his opinion thereon to Government, and that in the case of towns, villages, or suburbs, in which Act XXVI. of 1850 has been introduced, such notification shall not be issued without the concurrence of the Municipal Commissioners of such town, village, or suburb."

The Honourable the ADVOCATE-GENERAL suggested that it would be better if the following words were inserted after "thereto" in line 17:—"the Collector or other officer as aforesaid shall issue a proclamation to the class or community who use such burial or burning ground or place used for the burial or burning or exposure of the dead, notifying that it is intended to prohibit such use of the same, and calling upon them to attend before him at a place and upon a day specified to show cause why the order of prohibition as aforesaid should not be made, and after hearing the cause shown by the parties concerned or their representatives the Collector or other officer as aforesaid shall transmit the record of his proceedings to Government, and it shall thereupon be lawful for Government," &c.

The Honourable Mr. NARAYAN had no objection to this amendment and withdrew his own.

"Christian" was substituted for "public" in line 11 and placed before "worship" in line 23.

"Of publication" was omitted in line 3 of fourth section: "wilfully" in line 7; "Christian" inserted before "worship" in line 9; "three" substituted for "six," "not exceeding 200 rupees" added after "fine," and "with" struck out between "or" and "both"—all in line 13. Section 4 was then passed.

Between "the" and "registration," in line 5 of Section 8 "survey" was inserted.

The Honourable Mr. MUNGULDASS NATHOOBHOY proposed that to the end of the first paragraph of the section the following words should be added:—"Provided that a draft of all such rules, alterations, and additions shall be first published in the *Government Gazette* for general information, and the Governor in Council may, after hearing such

representations as may be made with regard thereto one month after the publication of such draft rules, settle the terms in which such rules shall be published."

The amendment was agreed to.

In the first line of the second paragraph "such" was deleted, and in the second line "when finally determined upon by Government" was inserted before "shall."

On the suggestion of His Excellency the PRESIDENT the following section was added to the Bill as Section 9 :—

"And whereas it is required by the religious tenets and customs of certain sections of the community that certain members of the same shall be buried within the precincts of their dwelling houses, or places of worship, and it is necessary to protect the public from any evil consequences arising from such burials, it is hereby enacted that it shall be lawful for the Governor in Council by rules to be published in the *Government Gazette*, to declare in what cases such burials shall be permitted, at what depth and in what description of graves any such person shall be buried. And if any such person shall be buried otherwise than in conformity with such rules the person conducting such burial shall be subject to imprisonment of either description not exceeding three months, or to a fine not exceeding Rs. 200, or both."

The Secretary presented to the Council petitions from the Bhewndy and Poona Surajanik Subhas against Bill No. 6 of 1873 (a Bill for enabling Government to levy Tolls on public roads and bridges in the Presidency of Bombay).

Colonel Kennedy moves the second reading of the Road Tolls Bill.

The Honourable Colonel KENNEDY, in moving the second reading of Bill No. 6 of 1873 (Road Toll Bill), said—Sir,—There appears to have been a great deal of misapprehension regarding this measure. In the discussions which have taken place elsewhere, it seems to have been regarded as a new Bill, and that tolls were a new source of revenue. There is nothing new, however, in this Bill either in its principles or details, and if it had never been introduced at all the law upon the subject would be precisely the same, and tolls would still be leviable under Act VIII. of 1851 and Act XV. of 1864. Under these Acts tolls are levied throughout the Presidency, and it cannot be said now that the people are taken by surprise with this Bill, for they have been paying these tolls for a number of years without any more objections than they would have had to the payment of any other tax or impost. I am not, I confess, prepared to approve in the abstract of tolls as a means of raising revenue, but let us remember that this is not an abstract question, but a very practical one. If tolls are to be abandoned, as many people would seem to desire, the public communications throughout this Presidency would suffer very seriously. Government has only a limited sum of money at its disposal for public works of all descriptions, and if the tolls upon roads are struck off and that sum diminished by so much, public works must be curtailed, or a fresh tax must be discovered. Tolls seem to me to have this recommendation, at all events, in their favour, that they are in force for actual services rendered, because the net proceeds under the law must be devoted to the maintenance of the roads and bridges upon which they are collected. It has been asserted by some public writers that the object of Government in proposing this measure is to raise a large sum which is to be lavished upon public works, such as

docks, &c., but, as I have just observed, it would be illegal to spend any of the money upon such works. I stated, in the few remarks I made when introducing the Bill, that the sum raised from these toll bars is not sufficient to maintain the roads upon which they are situated. I said that these proceeds were about 7 lakhs per annum, while, as appeared from the Budget of the current year, the total proposed expenditure upon road-maintenance amounts to between 13 and 14 lakhs; and this being the case, provincial and local funds will have to provide between 6 and 7 lakhs in addition to the total proceeds from tolls in order to maintain the roads. The Select Committee approved of the principle of the Bill and made some slight alterations upon the schedule, which as it stands even now contains rates which are higher than they have ever been worked up to. We retain these rates, however, in order to meet exceptional circumstances. To those who entertain great apprehensions regarding these rates I would observe that none of them are higher, while many are lower, than those which are levied elsewhere in India. I think that the local Government has shown by its actions hitherto that it has no desire to oppress people by working up to these rates. There was only one point upon which the Select Committee had any difference of opinion, that was with reference to the toll on foot passengers not carrying loads. We have all along possessed the power to levy such a toll, but we have never yet exercised it. Further, this Act does not make it compulsory for persons to make use of the roads, bridges, and communications which are provided. People may use them or not just as they please. We have retained the power because cases might arise, such for instance as the bridge now proposed to be erected at Surat to connect two towns, where it would be very desirable to levy the foot-passenger tax. At the same time, if a coolie does not choose to make use of that bridge he is quite at liberty to wade through the mud or pay for a boat, or waste his physical energies in going round by a ford, or even (as the Hon'ble the Advocate-General suggested at last meeting) the coolie may swim if he prefer to save his three pies. At Nasik a bridge is much required, and if one were built there it would be a work of great public utility, inasmuch as there is at present very great difficulty in passing from one part of the town to another. I am sure the inhabitants of Nasik would willingly pay a trifling sum for the use of a bridge, and this shows how desirable it is that Government should possess the power which this Bill contains. The cases of Nasik and Surat are only two out of many, and if we strike this power out of the Bill the result will be that many works of public utility will not be undertaken at all. In the neighbourhood of Surat there is a railway bridge over which the Railway Company have constructed a foot-way which has been in existence for several years. This bridge is farmed out to a contractor, whose contract provides that railway employés passing over the bridge are not to be taxed at all, while all other foot passengers shall be taxed at a rate not exceeding 4 pies per head. Last year this contract was sold for Rs. 1,650. Taking these figures my honourable and learned friend the Advocate-General may by a very simple calculation (which I see he is now making) ascertain that at least 100,000 coolies, or persons at all events chiefly coolies, male and female, use the bridge in the course of a year. This calculation does not take into consideration the contractor's profit, and as a matter of fact I believe that about 200,000 coolies use the bridge in preference either to swimming across the river or going round by the two adjoining fords. This, I think, is an illustration which will show that there are certain cases when the toll-levying process will not be so distasteful as some honourable members of this Council imagine. I have only seen this petition of the Poona Survajanik Subha to-day, and I will make a few remarks

upon the summary of its contents. I agree that a new enactment is not necessary if His Excellency chooses to exercise the powers given him by previous Acts. But the chief object of this Bill was to legalise what had been done since 1864, and this was considered to be a good opportunity for consolidating the various existing laws. As for their plea for foot passengers, I have already given my opinions on the subject; and regarding their request that sheep and cattle should be omitted from the schedule, I beg to say simply as a matter of professional evidence, that there is nothing which destroys a road so much as flocks of sheep or herds of cattle. That is a well-known fact. As to their desire that rates should be taken off the lower class of vehicles and transferred to those which they call "vehicles of luxury," used only by rich persons, my answer is that it is the so-called poor person's vehicle which carries the merchandise throughout the country. As to the fourth section I am not prepared to say that its terms may not be modified. As to the statement about the number of tolls which there ought to be in one zilla, I have before me a number of returns which give that information to a very considerable extent, and I believe I may say that the rule is that tolls must be apart from each other at least a day's journey of a bullock cart—say fourteen or fifteen miles. With these remarks, Sir, I beg ot move the second reading of this Bill.

The Honourable the ADVOCATE-GENERAL—SIR,—Before this motion is put to the Council I wish to say a few words upon what the honourable mover has just stated regarding this Bill. It is, no doubt, perfectly true, as the Hon'ble Colonel Kennedy has observed, that this Bill is not introducing any new form of taxation, inasmuch as the system of tolls has been sanctioned by two preceding Acts, and that this Bill is simply meant to legalise what had been somewhat irregularly done under these two Acts. But as this is the time when expressions of opinion upon the principle of the Bill are called for, I beg to say that I do not approve of that principle—and that I think it would be an exceedingly desirable policy to abandon the collection of tolls in this Presidency altogether. There is no analogy whatever between the circumstances, in this particular matter, of our own country and those of India. In England roads were chiefly constructed by turnpike trusts, and bridges built by means of private companies, and therefore tolls were necessarily resorted to in order to repay the original adventurers the money which they had advanced upon their undertakings. But in India the state of things is entirely different. Here roads are constructed either out of general revenue or from local funds, and in the designation "local funds" I include tolls, as I find they are so included in the last Adminstration Report of the Bombay Presidency. Now, the general revenue is mainly derived from three sources—the land tax, the salt tax, and the opium tax,—and of these the duty on opium is the only source of revenue which does not directly come from the pockets of the people of this country. The local funds depend upon and vary with the assessment of the land—one anna on every rupee of land assessment. Therefore it may, I think, fairly be said that from whatever source the funds for constructing and maintaining roads are provided, whether in the shape of general revenue or of local taxation, the tillers of the soil, whom Mr. Grant Duff recently described so happily as the *misera contribuens plebs*, are the people from whose earnings these funds are raised. That being the case, I do not think it equitable that the very people who pay for the construction and repair of the roads should also have to pay for the privilege of using them. I know it may be said that the purchasers of produce are the people who mainly

The Advocate General disapproves of the principle of levying tolls, and (judging by the state of the local funds balances) considers the Bill to be unnecessary.

use these roads and not the actual cultivators; but it after all comes to the same thing, for the man who purchases has to consider the cost of carrying his merchandise to market, and that consideration naturally affects the price which he agrees to pay, and so the toll comes indirectly out of the pocket of the producer. I cannot, for my own part, consider the collection of tolls satisfactory in principle, and if the question of imposing tolls were now introduced here for the first time, I should most assuredly vote against the second reading of this Bill. We have been told by the Honourable Colonel Kennedy that a necessity exists for continuing this source of revenue. That is a matter which, no doubt, admits of very easy proof, although, I am sorry to say, no such proof has been placed before the Council either by the Select Committee or the Honourable Colonel Kennedy. In looking at a source of information which I always consult on points like these—namely, the Administration Report—I find that the unexpended balances of local funds for the year 1871-72 are, if I may judge from the report of the Southern Division, considerably more than the whole sums realized from tolls. From the different way in which the accounts are prepared for the two Divisions I am unable to give the exact total for both of them, but I find that in the Southern Division the balance in hand last year in the Public Works account was Rs. 5,63,538-12-7. I cannot give the sum in the Northern Division, but taking the unexpended balance there to be only one-half of that shown for the Southern Division—and I do not think that is an unfair estimate—there is an unexpended balance of local funds in the two divisions amounting to at least as much as the whole sum raised from tolls, which the Honourable Colonel Kennedy told us, when he introduced the Bill, was about seven lakhs and a half. If this is the case, what is the necessity for tolls? While money which has been paid by people for whose benefit the roads are constructed remains in the Treasury, I do not see why the annoyance and vexation and expense of paying tolls whenever the roads are used should be permited.

The local funds balances not generally available.

The Honourable Colonel KENNEDY—Perhaps it may be as well to explain that the local funds balances are not legally available for the maintenance of provincial roads.

The Honourable the ADVOCATE-GENERAL—I was just going to make a remark upon that point. I find that under the provisions of Act III. of 1869 an assessment of one anna upon every rupee of revenue of land assessment shall be raised for works of public utility and convenience, including roads, schools, hospitals, and so forth. Now, no doubt, the repair of a road is a work quite as much for public convenience as making a road is, and I do not see why these balances which I have alluded to should not be applied to that purpose. We all know from daily experience that the repair of existing communications is as important as the construction of a new road. No doubt local funds make a very important element in the provincial budget and have risen to a magnitude which could scarcely have been anticipated. Some years ago we were informed in this Council that the local funds were to be put upon a better footing, and I well remember my honourable friend Colonel Kennedy expressing his hope that the day would soon come when local funds would be administered in a more methodical, economical, and satisfactory way than they are at present. Looking at the present balances, it seems to me that it would be an additional reason for the abolition of tolls in the Presidency if the funds available for roads could be largely increased by the realization of the improvements which the honourable gentleman hoped for. I find at page 299 of the Administration Report a tabular statement showing the actual income spent under

different heads of service. From imperial funds proper the expenditure upon communications is *nil*; repairs to communications under imperial funds, also *nil*; so that the whole cost of the construction and repair of communications for the year under review was borne from the two sources of provincial and local funds. Provincial funds seem to have been chiefly spent on maintenance of roads; and local funds show the balance to which I have already referred. Under these circumstances it does not appear to me desirable to affirm the principle that tolls should continue to be levied. With regard to bridges the case is perhaps different from that of roads. The Honourable Colonel Kennedy has cited the case of the bridge at Surat, and by the statement which has been made I find that if the full amount of four pies were levied, 79,200 passengers would be sufficient to pay the full amount of the contract.

The Honourable Colonel KENNEDY—Although the limit of four pies is given to the contractor as the condition of his contract, I find that he only levies three pies.

The Honourable the ADVOCATE-GENERAL—That would only make the number of passengers a little more—say 100,000 in the course of the year. No doubt this case is to some extent an argument in favour of the principle for which my honourable friend contends. But that bridge is built neither out of local nor imperial funds, but out of the funds of a private company, which is simply endeavouring to get some interest on the sum it expended upon the construction of the bridge. But I go further than this. I say it would be better to spend seven lakhs less a year in making and repairing communications than to receive those seven lakhs from tolls; I think that ten lakhs spent upon free roads is better than twenty lakhs spent on roads and bridges upon which tolls have to be paid. There is certainly this to be considered, that those who do not wish to pay can go off the highways into the byways, or anywhere that will avoid the toll, but that does not appear to me desirable. The Honourable Colonel Kennedy says that a coolie may swim if he likes; and no doubt the liberty of the subject is not intended to be so much restricted that a man may not swim if he chooses. But that liberty in my humble opinion is a questionable benefit. Where there are bridges over rivers where tolls upon ferries have long been levied it may perhaps be fair to make a charge, but I do not think a charge ought to be made upon foot passengers upon a road at all, and I hope the Council will expunge from the Bill that last item in the schedule of three pies upon every foot passenger. As to the fourth section relating to the confiscatory procedure in the event of non-payment of tolls, it appears to me that it is oppressive in the extreme. It gives a power to the turnpike man altogether excessive; but as the Honourable Colonel Kennedy has said that that section may be modified I reserve any further observations upon that point. I cannot for the reasons I have stated assent to the principle of the Bill so far as the levying of tolls is concerned. I have no special information upon the financial matters concerned, but from what have pointed out in the Administration Report it does not appear to me desirable or necessary that tolls should be imposed. No doubt a plea of established usage may be urged in favour of thecontinuance of these tolls, but that plea does not appear to me to be sufficient, and Ishould gladly see all but the first two sections struck out of the Bill.

The Honourable Mr. ROGERS—The Honourable the Advocate-General has referred to the Administration Report, and deduced from it that no imperial funds are used upon the repairs of roads. If he had gone a little further, and looked at the provincial funds, he would have found a different state of matters.

The Honourable the ADVOCATE-GENERAL having replied that he referred to the provincial funds, the Honourable Mr. ROGERS continued—These provincial funds are allotted to the Presidency Government for expenditure upon the matters mentioned in the Administration Report, and under another name they are imperial monies.

The Honourable the ADVOCATE-GENERAL—I am aware of that. In saying that no portion of the imperial funds has been spent upon either the making or repairing of roads, I wished to draw attention to the fact that the provincial allotment seems to have been spent entirely upon post and military roads.

Mr. Rogers urges the necessity of a toll to repay outlay upon certain requisite means of communication.

The Honourable Mr. ROGERS—Another objection which the honourable and learned member made to the Bill was the difference which prevails between the Indian and the English systems, it seeming that in England it is necessary to levy tolls for the purpose of repaying a private company, or turnpike trust, for executing certain works. The honourable member seems to be under the impression that the local funds as at present levied would be sufficient to cover all the expenses upon the public roads in the Presidency; but I assure him that such is not the case, and that local funds are expended not only upon communications but on many other objects—such as making wells, building dhurrumsallas, and constructing tanks, &c.—and the balance which he has referred to as standing at the credit of the Local Fund is not one balance but an aggregate from every district in the Presidency. He says that in the Southern Division accounts there is a balance of about five lakhs, but if the details were gone into, I believe it would be found that it is composed of the balances of all the districts. It must not be forgotten that it would be illegal to appropriate the balance of one district to carry out the requirements of another. Therefore, it would be impossible to apply this balance in the way the honourable member suggests. The funds levied in each district must be spent in that district, and no other. Even if that balance were available it would not go very far in a large undertaking. Supposing that the Krishna were to be bridged, such a balance would never be sufficient for the purpose. With regard to the bridge at Surat, I think the building of a means of communication between the towns on each side of the river would be almost on the same footing as a similar undertaking by a turnpike trust in England. Since the local funds of one district must be applied in that district only, it would be perfectly impossible to build this bridge at Surat except by loans, and in such a case it would be necessary to make a levy in order to pay the interest. I do not mean to uphold the principle of levying tolls upon foot passengers, but if it is necessary to obtain certain communications we must have the power, at all events, to levy such a toll. The Honourable Colonel Kennedy has explained to the Council that we have had power to levy these tolls since 1864, and we have not yet had occasion to use it, and I think Government may still be trusted not to put the power in force unless it is actually necessary to do so.

The Honourable the ADVOCATE-GENERAL—Looking through the statements of the Southern Division part of the Administration Report, I find that in nearly every district the amount on hand for public works exceeds the amounts received from tolls in each district. The Honourable Mr. Rogers has argued that the surpluses in particular zillahs must be carried to the credit of these zillahs. Well, I see here (Administration Report) that the balances in nearly all the zillahs exceed the amount of tolls collected in them.

His Excellency the PRESIDENT—These balances must surely be liable to meet many claims.

The Honourable Mr. GIBBS—I believe they are simply balances which though unexpended are appropriated.

The Honourable Mr. BYTHELL—As we are given to understand that Government cannot do without the tolls and as there is at present no Act in force under which they can be collected, I am inclined to vote for the second reading of the Bill. At the same time, I must say that I think charges upon bullock carts that are laden with merchandise are simply transit dues in another shape and I cannot but regret that the British Government, while using every possible endeavour to induce Native rulers to abolish transit dues in their territories, should seek to perpetuate the same system under the name of tolls. There are many suggestions in the petition from the Poona Survajanik Subha which merit careful consideration by this Council. As we shall meet these in the course of going through the Bill in detail I will not detain the Council by stating them specifically, but I may say generally that I sympathise with most of the arguments adduced in that petition.

His Excellency the PRESIDENT—Tolls are not transit dues. Transit dues are collected according to the nature and value of the commodities put into the cart; but tolls are levied upon the cart carrying a load without any reference to the value of that load, and simply as a recompense for wear-and-tear of roads. To my mind, therefore, it is a mistake to call tolls transit dues in the ordinary sense of the term. With reference to the question of tolls, I may say that I know it has been proposed to attach a license to each cart, but I have been told that in the Presidency there is an universal consensus of opinion against the license system, inasmuch as it would fall very heavily upon the small agricultural classes.

The Honourable Mr. GIBBS—Sir,—I have a few observations to make upon this subject before the vote is taken. I was not a member of the Government when the principle of this Bill was settled and the care of it handed over to the charge of my honourable and gallant friend Colonel Kennedy, who, I may here mention, is as much responsible for its contents as I am for the Mofussil Municipalities Bill. Both these Bills were handed over to us by the Executive Government and we are now simply acting as dry nurses for them. When the Tolls Bill first appeared in print I found a number of Native papers, and also some European, writing against the Honourable Colonel Kennedy, for introducing a novelty and going back to the dark ages before civilisation; but directly I perused the Bill I found it contained references to former Acts, and if the writers against Colonel Kennedy had adopted a similar course they would have found that really and truly the Bill before the Council is no new Act, but that its purposes are simply to clear away a doubt about the legality of this Government's proceedings in levying tolls for the last nine years under these Acts without a formal notification of the Government of India previously issued, and to combine in one Act for the sake of convenient reference Acts XV. of 1864 and VIII. of 1851. I find that nearly all the present sections of this Bill are already part of the general law of the Presidency:—

Section III. is Section II. of Act VIII. of 1851.

Sections IV., V., VI., VII. and VIII. are Sections III., IV., V., VI. and VII. of Act VIII. of 1851.

Section IX. is Section II. of Act XV. of 1864.

Section X. is Section VIII. of Act VIII. of 1851.

So that really we are now seeking only to indemnify ourselves for the past, and to add that roads and bridges made from local funds shall also be liable to tolls if His Excellency the Governor in Council thinks fit. We are asking the Council to adopt no new principle; the principle has already been adopted by the Government of India. The public press are pleased to comment upon our proceedings, and I for one have no objection to their doing so, but I wish they would take a leaf out of our book, and, when such matters as this come before them, refer to "F. P."—that is former proceedings and get up the subject before they comment thereon. I must say I agree that it would be a very nice thing if there were no tolls on our roads. I remember, when I had to travel through some of the districts of this Presidency, as a Judge of the High Court on tour of inspection, that I had to pay tolls in every direction. Certainly it was rather a nuisance to be compelled on a cold morning to fumble in one's pockets for the wherewithal to pay the tollman, but when I remembered the execrable roads over which I had jolted with difficulty in a bullock cart in former years and compared them with the capital road over which I was driving in a four-wheeled carriage and pair of horses my antipathy to the tolls vanished. There can be no doubt that the repairs of the communications generally throughout the Presidency amount to a very large sum in the course of a year, but if we do away with these tolls, the roads, especially those special roads over the many small ghauts which were formerly impassable, will fall into disrepair, and the consequence will be that carts will be smashed and ryots will be sadly out of pocket. I am not aware that objections to the present system are numerous. I never remember any case connected with the present Acts coming before the High Court during the eight years I have sat as a judge in it. The only opposition seems to come from my honourable and learned friend the Advocate-General and the Poona and Bhewndy Associations and until this Bill was published I never heard anybody object to having to pay tolls in the Presidency. With reference more particularly to the pedestrian tax, notwithstanding that Government has possessed the power for such a length of time—nearly 25 years—to impose such a toll I believe it has never done so, save in exceptional cases, as at Matheran or the Khandalla Ghaut, and I think it will never be called into play except in such exceptional cases or, for instance, in the case of the proposed bridge across the Taptee at Surat, or that other bridge at Nasik alluded to by my honourable friend Mr. Narayan Vasudevjee, the want of which at present is felt to be a serious inconvenience. So far as my experience of the pedestrian classes of this country goes, I think they would be extremely glad, as in the case of the Railway Company's bridge at Surat, to pay even three pies to get across a river without inconvenience rather than have to ford or to get into a ferry-boat and run the risk of both their goods and their lives being lost. Under these circumstances I shall vote for the motion.

The Honourable Colonel KENNEDY—I would only add to what has been said by honourable members, that if this Bill were not to pass it would not affect the law upon the subject which already exists. Before the Council could alter that law, it would have to alter the Acts of the Governor General.

His Excellency the PRESIDENT put the motion, that this Bill be read a second time.

Bill read a second time and considered in detail.

The motion was agreed to and the Council then proceeded to consider the Bill in detail.

His Excellency the PRESIDENT called attention to the fact that although section three legalised what Government had done up to that time in the collection of tolls,

it contained no provision for the legalisation of future proceedings of Government in the same direction.

To the end of the first clause of the section the following sentence was added:—"Until such rates of tolls shall be fixed by the Governor in Council, the tolls now levied shall continue to be levied by the persons under whose management the same are now collected, who shall be held to have been appointed under the provisions of this Act."

The Honourable Mr. BYTHELL asked if there was any foundation for the statement in one of the petitions which had just been read to the Council, that tolls were levied upon roads which had not been constructed out of imperial funds—that money had been made by Government out of roads which had been constructed by private individuals?

The Honourable Colonel KENNEDY said he knew of no foundation for such a statement.

Section four was then considered.

The Honourable Colonel KENNEDY said that this clause was section of Act VIII. of 1851. He had received a letter from the Collector of Ahmedabad who wished to make the evasion of a toll penal. He meant his amendment to apply chiefly to Europeans, because the collection of tolls would become a farce where the toll-keeper was a Native and the person refusing to pay a European.

The Honourable Mr. MUNGULDASS said he would rather see European gentlemen allowed to go free than see their refusal to pay a toll made a penal offence, because the penalty would be practically inoperative where a Native tollman and a European passenger were concerned.

His Excellency the PRESIDENT said that the whole section appeared to him to be terribly stringent as it stood.

The Honourable Colonel KENNEDY had no objections to the section being modified. It might be sufficient simply to bar the passage of non-payers.

The Honourable Mr. GIBBS mentioned that during his experience in the High Court he had never heard of there being any occasion to review any proceedings under the Act containing this section.

His Excellency the PRESIDENT—Nevertheless, it does appear to me to be an enormous power to give to a toll-keeper. He is allowed to seize property and sell it without anybody interfering with him. He might seize a man's cart and bullocks and sell them to his next door neighbour for almost nothing.

The Honourable Colonel ANDERSON mentioned that Hindoos were very averse to complaining and toll-collectors knew this. The latter might seize the headdress of an unfortunate Native, and then turn upon him saying "go and complain," knowing very well that before the Native would consent to be stopped upon his journey and have all the annoyance of proving his case in cutcherry, he would rather submit to lose his headdress quietly.

His Excellency the PRESIDENT remarked that he certainly was of opinion that toll-collectors would take care of themselves, because last season, when he was going to Mahableshwur, one of them made a complaint to the Collector that he (His Excellency) had not paid the toll.

The Honourable Colonel ANDERSON wished something to be put in the Bill rendering

it punishable for a toll-keeper to be absent from his duty. He had known of a string of carts being kept at a toll-bar for two hours because the toll-keeper had chosen to be absent from his post.

After some further discussion, consideration of Sections IV. and VII. stood over, and Sections V., VI., VIII., and IX. were agreed to.

The Honourable Colonel KENNEDY said he had received suggestions regarding Section X. from Mr. Hope, Surat, and Mr. Borrodaile, Ahmedabad. As the section stood all the tolls might be deemed "public revenue" and used as such, but these gentlemen wished it to be expressed in the Bill that local funds should be spent only in the locality in which they were raised.

The Honourable Mr. RAVENSCROFT thought that if the suggestion of Messrs. Hope and Borrodaile were adopted, the Council would be alienating a portion of the imperial revenue.

The Honourable Mr. GIBBS was of opinion that tolls at present were imperial revenue and could not be made otherwise without the consent of the Government of India.

The Honourable Colonel KENNEDY said that tolls even now were not public imperial revenue.

After a few remarks from honourable gentlemen, the section was altered to read as follows :—

"The net proceeds of the tolls levied under this Act shall be applied wholly to the construction, repair, and maintenance of roads and bridges within the Presidency of Bombay: Provided that the net proceeds of tolls levied on roads or bridges constructed by or belonging to any local fund committee shall be applied to the construction and maintenance of roads or bridges in the district under the superintendence of such local fund committee."

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,
JOHN NUGENT,
Acting Under Secretary to Government.

Poona, 8th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Tuesday, the 9th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable COLONEL W. C. ANDERSON.

The rule of procedure regarding amendments proposed on the third reading of the Burial Ground Bill.

His Excellency the PRESIDENT—Before we begin with the order of the day, I may mention what occurred to me yesterday evening after leaving the Council with respect to that part of our proceedings the propriety of which the Honourable Mr. Bythell expressed a doubt about when we were considering the amendments on the Burial Ground Bill. It seems to me that the course which we adopted was opposed to the seventeenth rule of Council, which says—" Every Bill will be read three times before it can be passed, and if the motion for the third reading be carried, the Bill on being so read shall be considered as passed." We, however, agreed to the third reading, and then began to consider amendments, but that course was clearly not intended by the rule just read. With reference to the Wuttundars' Bill I think the course we shall have to pursue in Bombay, is to take up the amendments first and then go on with the third reading. If any member wishes a third reading not to be proceeded with he may secure the adjournment of the subject under discussion by the fourth rule of the rules of this Council. When this Tolls Bill is considered in Bombay the order of the day shall be the third reading. The record now should be amended to the effect that the third reading of the Bill was postponed. The spirit of the seventeenth rule is clearly that amendments must be proposed before the third reading of the Bill.

The Honourable Mr. BYTHELL concurred with His Excellency that this was the proper course, and what His Excellency suggested was adopted.

The Road Tolls Bills considered in detail.

The Council then proceeded with the consideration of the Road Tolls Bill in detail.

The Honourable Colonel KENNEDY drew attention to section four, relating to the proceedings which may be adopted by a toll-collector in the event of a person refusing or being

unable to pay a toll. It had been proposed, he said, that the section should declare it penal for any one to evade a toll, but there were a number of practical difficulties in the way of this being done, magistrates often being a long way off where tolls were collected. The clause as it stood was the law as it is at present, and, therefore, as a matter of expediency it might be better to allow the section to stand as it was.

The Honourable Mr. GIBBS enquired whether any body had ever heard of a case of a toll-man selling up property he had seized ?

The Honourable Colonel ANDERSON said in all his experience he never heard of such a case, but probably as Natives would sooner go on their journey than complain, it was probable enough that arbitrary measures were sometimes adopted by toll-men to recover their tolls.

The Honourable Colonel KENNEDY—When a man refuses to pay, the toll-man seizes his puggaree. That seems to me to be a very quick and effectual proceeding.

The Honourable Mr. ROGERS affirmed that he had never heard any complaint in respect of the working of this section.

The Honourable the ADVOCATE-GENERAL—It seems to me to be a choice of evils, and the question is, whether it is better to leave an evil which exists or create a new one.

The section was finally agreed to unaltered.

The Honourable Colonel KENNEDY then called attention to section seven, relating to the penalty for demanding illegal tolls.

The Honourable Colonel ANDERSON suggested that an addition should be made to the section, making it a criminal offence, and liable to a term of imprisonment for six months or a fine of Rs. 200, for a toll-collector to be absent from his post and thereby cause unreasonable detention to people anxious to pass on their way.

The Honourable Mr. GIBBS thought a penalty of Rs. 200 for such an offence would be absurd.

The Honourable Mr. RAVENSCROFT considered that the offence should be merely departmental and ought not to be treated criminally.

The Honourable the ADVOCATE-GENERAL—Moreover, there would be created a new offence, and I doubt whether that would be permissible.

The Honourable Mr. GIBBS—At all events, the previous sanction of the Governor General will be required before a new offence can be created.

The Honourable Mr. Rogers thought it would be much better to make it a provision in the contract that if the toll-collector did not do his duty a fine would be imposed.

The majority of the Council concurred with the Honourable Mr. Rogers, and the subject dropped.

The Council then proceeded to the consideration of the schedule.

The Honourable Mr. RAVENSCROFT demurred to the first item—" On every four-wheeled carriage on springs, Rs. 1-8-0." The highest toll ever paid for a carriage and pair in England was 1*s.*, and, in his opinion, it was ridiculous to charge three times that amount in India.

The Honourable Colonel KENNEDY—The toll has been in existence for nine years, and we have never levied this maximum.

His Excellency the PRESIDENT—Then why keep such a high maximum ?

The Honourable Mr. GIBBS—There is a question, with regard to this schedule, whether the Council can reduce the amounts stated in it. As the Act stands, these tolls appear to me to be public revenue, and unless the Government of India give us authority to reduce the rates I do not think we have power to do so.

His Excellency the PRESIDENT—We have assumed a greater power than that in declaring that all tolls levied in the Presidency must be expended upon roads and bridges in the Presidency.

The Honourable Mr. GIBBS—That was practically in the original Act.

His Excellency the PRESIDENT—Then surely if we have power to deal with the whole of the tolls we have power to deal with a portion.

The Honourable the ADVOCATE-GENERAL was of opinion that the limitation imposed upon local Governments by the Government of India referred only to taxes and duties imposed by the Government of India "for the general purposes of such Government." Now it could not be said that these tolls, if they were to be spent upon roads and bridges in the Presidency, could be held to come under the phrase "for the general purposes of the Government of India."

The Honourable Mr. GIBBS—Nevertheless, I am inclined to think we have no power to alter this schedule, because we have taken it from the original Act.

The Honourable the ADVOCATE-GENERAL—I do not think that this Council is debarred from dealing with this schedule by the terms of the Indian Councils' Act.

The Honourable Mr. GIBBS called attention to the letter of the Bombay Government asking sanction to introduce this Bill from the Government of India, and to the Government of India's reply (which are read), and contended that the terms of the former letter did not justify the opinion that the Government of Bombay wanted permission to alter the schedule which was contained in the previous Acts upon the subject.

A long discussion took place upon the point here raised, and finally

The Honourable Mr. GIBBS moved that the schedule be allowed to stand as it formerly stood before the Select Committee made alterations upon it.

The Council divided on the Honourable Mr. GIBBS' motion:—

Ayes—4.	*Noes*—8.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable the ADVOCATE-GENERAL.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. GIBBS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Colonel KENNEDY.	The Honourable E. W. RAVENSCROFT.
	The Honourable NARAYAN VASUDEVJEE.
	The Honourable J. K. BYTHELL.
	The Honourable GUNPUTRAO TATYA SAHEB.
	The Honourable Colonel W. C. ANDERSON.

The motion was lost.

The schedule was then gone into.

The maximum on "every four-wheeled carriage on springs" was reduced from Rs. 1-8 to Rs. 1; on every two-wheeled carriage on springs from 12 annas to 8 annas; the rate upon "every ekka" was struck out and 2 annas was declared to be the rate "on

every ekka or hackery on springs"; the rate upon every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden, was reduced from Rs. 1-8 to Rs. 1; on "every camel if laden" from 8 annas to 4 annas, and on every camel if not laden from 4 annas to 2 annas.

The Honourable Mr. NARAYAN was of opinion that if foot passengers were to be charged 3 pies, the cases in which that toll might be exacted should be laid down in the Act.

The Honourable Mr. BYTHELL thought that if any great expense had at any time to be incurred for the building of particular bridges, a short Act legalizing a toll to provide for the expense might be passed, just as was done when similar emergencies occurred in England. It had been admitted by the Honourable Colonel Kennedy that the pedestrian toll would only be levied in particular cases, and if that were the case nothing could be better than for the Council to adopt what he (the honourable speaker) proposed.

The Honourable Mr. GIBBS considered that it would be very unwise to cancel this item from the schedule, and mentioned the advantages which were gained at Matheran by the levy of the toll, the roads there being kept in good repair by means of the impost.

Some slight discussion followed on the subject, and finally it was agreed to allow the item to stand in the schedule.

The schedule was then agreed to as amended; as also the preamble.

Petition from the Ahmedabad Association regarding the Boiler Inspection Bill presented to the Council.

Before the second reading of the Boiler Inspection Bill (No. 7 of 1873) was moved, the Secretary read a petition which had been received from the Ahmedabad Association regarding Bill No. 7—a Bill to provide for the Periodical Inspection and the Management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay, and within certain districts in the Presidency of Bombay. He also read some remarks on the same subject which had been addressed by Mr. Moylan, Boiler Inspector, Bombay, to Mr. Souter, Chairman of the Committee of Boiler Inspection, Bombay.

Mr. Rogers moves the second reading of the Boiler Inspection Bill.

The Honourable Mr. ROGERS then, in moving the second reading of the Bill, said—Sir, —I beg to move the second reading of this Bill. There has been a good deal of discussion on the subject of the Bill in the public prints, but so far as I am able to judge opinions are very fairly divided—those who desire to see Government take proper measures to protect the lives of its subjects wishing that the Bill should pass, and those who care nothing for the subject, or wish only to be left to their own devices or to the tender mercies of incompetent men, saying, there ought to be no inspection. This state of public opinion shows, I think, that boiler inspection and engineer inspection ought to be taken by Government into its own hands. Considering all the circumstances which were brought to light before this Bill was introduced here, I think very few people will be found who seriously could say that Government ought not to take any measures to protect lives from being lost through bad boilers or the incompetence of the men in charge of them. I see that the Honourable Mr. Bythell has a motion upon the notice paper to reject all the sections from 14 to 22—that is those sections referring to the examination

of engineers. I am not aware exactly what arguments my honourable friend will introduce in order to support his motion, but I think none of them can be of such a nature that they cannot be met. I may anticipate one of them perhaps—that it has not been necessary to have these examinations in England; therefore there is no necessity for them in India. But I think it will be generally allowed that the circumstances of this country are very different from those of England. Although there may not be a regular inspection of steam boilers, and engineers are not obliged to possess certificates of competence, I believe that there are other associations in England which practically take those matters into their own hands.

The Honourable Mr. BYTHELL said that only Insurance Companies did so.

The Honourable Mr. ROGERS continued—Well, I believe, that as a general rule there are very few manufacturers in England who do not insure their boilers, and Insurance Companies are not likely to insure boilers that are defective. Private enterprise thus carries out in England the object which we seek, and in this country Government must take the place of private enterprise. The Bill has been carefully considered in Select Committee, and provisions have been introduced to prevent any inconvenience which might have been experienced had the Bill passed as it stood originally, and (as the honourable member must have heard just now) the petition from the Ahmedabad Association says that these alterations are considered very great improvements. For instance, we have provided that no engine of less than 10 horse nominal power shall be subject to inspection. The reason of this is that there are such things as steam pumps, irrigation projects, paper manufactories, and so forth, with which steam boilers are connected, and it would be scarcely necessary to inspect these. By thus limiting the class of boilers which we shall have to inspect, I think we have provided against any undue interference with the development of industry. One of the petitions received against the Bill says that it will be quite sufficient to leave the protection of people's lives to the power possessed by Magistrates under the Penal Code to punish in case of negligence. But the provisions of the Penal law will not always effect this. Although a manager of a factory may be competent enough for his duties, yet he may not always have time to look after all the details of his machinery, and unless the person directly in charge of an engine or boiler is in some way examined to prove his competence, accidents will be continually happening. On the whole, I think, the balance of opinion will be found to be in favour of the examination of engineers as well as their boilers or engines. Of what nature that examination will be has been left as vague as possible in the Bill, as the Council may see by a perusal of Sections 14 and 15. In framing rules His Excellency the Governor in Council may find it necessary to make rules for different parts of the country, so that it does not follow there shall be one fixed rule for examination, it may be written in some cases, and in others it may be oral. By this means we may avoid any difficulties from stopping works at factories suddenly, unless for some very good reason. With these remarks I beg to move the second reading of this Bill.

The Honourable Mr. BYTHELL—Sir,—Although upon the first perusal of this Bill I was inclined to approve of its principle, yet further consideration of its terms and careful inquiries, both in Bombay and in the Mofussil, as to the working of steam boilers and machinery, have induced me to resolve to vote against the second reading of the Bill as it

Mr. Bythell disapproves of the Bill, thinking it unnecessary.

now stands. It does, of course, seem reasonable for Government to endeavour to protect the lives of its subjects from any danger that may be preventible, but, I think, we ought first to take into consideration the question whether such prevention is possible without exercising hardship, injustice, or oppression, and we ought also to consider whether the number of casualties which have occurred in this Presidency within the last few years is large in proportion to the number of steam boilers in use. If this number is found not to be large, then I must say that I agree with the petition from the Ahmedabad Association that a provision which has not been found necessary in England, where there are so many steam boilers and so many machines, cannot be necessary here where there are comparatively so few. Even with the very best machinery and the very best men in charge, we all know that fearful accidents will happen occasionally, and, therefore, I think special legislation now upon the subject would be a mistake, unless it could be proved that the number of casualties are exceptionally numerous. I must say that nothing adduced by the Honourable Mr. Rogers has caused me to change my mind upon the subject. I have no statistics before me, but from all that I can hear the number of accidents in Bombay Presidency has been anything but large. Of course a bad case has just occurred at Broach—at all events, I suppose it must be a bad case, judging by the fact that the proprietor has been committed to take his trial. But in my opinion this very prosecution shows that the Bill is quite unnecessary. Government has power under the Penal Code to punish people who endanger human life, and I think the deterrent effects of that law are more likely than this legislation to prevent the recurrence of accidents in future. It may be said, however, that it is more the province of a Government to legislate for the prevention of accidents to its subjects than to punish those who cause the accidents, and I am glad to see from Section 518 of the Criminal Procedure Code—a section to which our attention was drawn by the Honourable the Advocate-General in another matter—that it is stipulated that the Magistrate of a district or other Magistrate " may by written order direct any person to abstain from a certain act * * * * whenever he thinks such direction is likely to prevent danger to human life." The power contained in this section was prominently brought to my notice a short time ago when a friend wrote to me from Broach that under the Penal Code a Magistrate had actually prohibited an owner of a steam boiler from working it beyond a particular pressure until it was examined. I may also remark that this same gentleman told me that the examination justified that boiler being worked at a higher pressure than that which the Magistrate ordered. This being the case, I repeat that I think such legislation as this superfluous. The honourable mover of the Bill has referred to the fact that native-owned and native-managed factories are already spread over the whole of Guzerat, and from what he said I imagine that the provisions of this Bill are intended specially to apply to those factories. We are informed, however, in the petition of the Ahmedabad Association that not one life has ever been lost at a single one of these factories, and therefore we cannot use as an argument for the necessity of this Bill the fact of factories being owned or managed by natives.

Here the Honourable Mr. ROGERS said that two lives were lost at Ahmedabad.

The Honourable Mr. BYTHELL—In that case, Europeans were in charge, and I am now referring particularly to native-owned and native-managed factories. It appears to me that if Government is going to legislate whenever the lives of its subjects are in danger from accidents, this Council will have a very wide sphere of duty to attend to. If the principle that Government interference is necessary in this case be accepted, I would like to ask

(and I see Mr. Moylan has also asked the question) upon what principle Railway Companies are to be exempted from the operation of this Act. Locomotive accidents have happened even in England, where there is no special legislation on the matter, and some of these accidents have been very disastrous to life and property. We know too that many of these accidents have happened through the negligence of railway officials, and in this country, considering how miserably engine-drivers and other railway officials are sometimes paid, it is wonderful that Government can rest content with the present state of matters; it must be admitted that the danger to human life in connection with railways is very great compared with the small amount of danger which experience has taught us to expect from the stationary boilers or prime movers employed in this Presidency. Had accidents here been so numerous as to give boilers an unenviable notoriety above all other causes of violent death, then I might think legislation upon the subject necessary. To give a strong example—how many thousand of miserable deaths take place annually from snake-bite apparently almost unheeded by Government, which takes no preventive measures, or at all events only does so on a small scale in certain districts.

The Honourable Mr. GIBBS—I think that Government gives a reward for poisonous snakes over the whole of the Presidency and large quantities of ammonia are also distributed by Government for cures.

The Honourable Mr. BYTHELL—I do not know what the present custom is exactly, but I remember seeing it stated in the newspapers, not very long ago, that the Government of India had cancelled the order to pay 4 annas for each snake killed in a certain district because the result of the increase was that a very large sum had to be paid.

The Honourable Mr. GIBBS—The order to pay 4 annas may have been cancelled, but not so an order to pay 2 annas, and that smaller reward has been in existence for many years.

The Honourable Mr. BYTHELL—Well, seeing that so many accidents occur yearly from snake-bite, it is difficult to see why Government should think the subject of so little importance as to reduce the amount of reward for killing a snake as soon as a large expenditure had to be met. Yet if a man in charge of a boiler happens to blow it up and kills himself a Government inquiry is immediately ordered, and report after report ends in special legislation like this.

The Honourable Mr. ROGERS—We can scarcely legislate to prevent cobras from biting.

The Honourable Mr. BYTHELL—But Government do not send a set of men, and call them inspectors, about the country to destroy snakes although their bite is so fatal to human life. Yet this is what Government are proposing to do in the case of the boilers, with which only very few deaths take place every year. We might get a hundred other examples, if we interfere with boilers, where we ought to introduce special legislation. Take, for instance, boating accidents. Many hundreds of people die annually from boating accidents in India, but Government notwithstanding never think of making the owner of a boat liable to a penalty of Rs. 500 every time he lets his boat out without a certificated boatman in charge. Legislation in such special cases can only be justifiable if the evil to be remedied be very great and if the remedy be simple and efficacious. Now I say that if the remedy which the Penal Code provides is exercised there is no occasion for this Bill, and, moreover, the evil that the Council proposes to legislate for is by no means formidable. The remedy which the Council proposes has not the advantage of simplicity; and I am afraid that under

it mills in many parts of the mofussil will be compelled to stand idle for several days until the inspector chooses to call, otherwise Government will be compelled to employ a very large staff. As to the examination of engineers I agree entirely with what has been urged in this petition from Ahmedabad. The thing might do very well to commence with, but as time wore on the owner of mill property would be subject to losses because, supposing the time were the busy cotton season, when each mill must be kept hard at work every day, and supposing the certificated engineer were to fall sick or to die, it is probable that the mill-owner would be compelled to close his mill for several days before he could obtain the services of another properly certificated engineer, or pay the heavy penalty fixed by the Bill if he chose to break the law. Then the system will probably expose proprietors to the insolence of inspectors and other inconveniences. From inquiries I have made, I do sincerely believe that the Act could not be worked without the most objectionable practices creeping in. If complaints are so rife in Bombay, where there is a strong public opinion about the unsatisfactory working of the Act, what may we not expect in the mofussil? Government cannot afford to give a very high salary to an inspector, and we know that it is the case that unfortunately many poorly paid Europeans fall in with the prevalent customs of dustoor and bribery. An inspector under this Act will have almost unlimited power in his hands in the mofussil and he may line his pockets to an almost unlimited extent. It is true the Bill provides that there must be an appeal in certain cases where owners of boilers consider themselves aggrieved, but we must all know that in the busy season an owner would submit a great deal to an inspector rather than have his boiler fires put out and his mill stopped. Therefore I say that the inspector will have almost unlimited power by this Bill. He may say that a boiler must not be worked beyond a certain pressure—a pressure which may make the driving of the machinery impossible. I hope this Council will hesitate before enacting a system of inspection which has not been found necessary in England. The Honourable Mr. Rogers adduced one instance which he thought to be in favour of the Bill, but I think it is really a very strong argument against it. He mentioned that there was no private inspection of boilers in this country and stated that boilers in England were mostly subject to private insurance companies' inspection. In spite of the opinion of the honourable member that most boilers are insured in England, I am inclined to differ with him. Lancashire, my native county, is a large steam boiler county, and I think I am right in saying that it is not by any means the universal custom there to insure steam boilers. The fact of there being no custom of insurance here shows that the owners have every possible inducement to guard against accidents. We might also remember that boilers which are brought out to this country are, as a rule, of the very highest class, and the few accidents that have occurred in Broach and elsewhere are only the exceptions which prove the rule. Though you inaugurate the most perfect policy of inspection, you may depend upon it that now and then an accident will occur from a bad boiler escaping detection. There is another remark in the Ahmedabad petition which deserves attention. I agree with it that this country requires the extension of the use of private capital and scientific means in order that its enormous resources may be developed. Take the case of the district of Guzerat against which this measure appears to be specially levelled. A few years ago Broach cotton was so badly prepared by native means that it was almost unsaleable; but in consequence of the introduction of steam factories all over the country, and the erection of gins peculiarly suitable for the staple, ginned Broach now brings a higher price than any other cotton in India except Hinghun-

ghat. That can be shown by a reference to Liverpool price currents of the last few years. And I say it is a great pity indeed that this Government, when there is no crying need for interference, should now interfere, merely for the sake of an idea, in a way calculated to check the extension of private enterprise in the direction of introducing machinery. A great many of these factories in Guzerat are not in British territory, many being in the Gaekwar's territory, and to put the present Bill into operation will be to handicap the British territory manufacturers in favour of the others. I repeat, I believe that the Bill if made law will be productive of hardship and must tend to foster the objectionable practice of bribery which permeates the country, and that under no circumstances can any good result from the Bill commensurate with the evils it will bring about. For these reasons I shall vote against the second reading of the Bill.

The Honourable Mr. MUNGULDASS—I certainly concur in what the Honourable Mr. Bythell has just said regarding the inadvisability of passing such a measure as this. I would add to what he has said that if my information is correct all the accidents which have happened up to this time in Bombay as well as in the mofussil, were in those factories which were under European superintendence and management. If this Bill is meant only to inaugurate a better system of native management of engines and boilers, I cannot see the expediency of the measure. As to the Honourable Mr. Rogers' statement that boilers in Bombay are not insured, I think I am correct in saying that almost all the Bombay factories with the exception of one or two are insured.

The Honourable Mr. BYTHELL observed that they were insured against fire only.

The Honourable Mr. MUNGULDASS—I mean so. However, for the reasons I have given, and for those advanced by the Honourable Mr. Bythell, I must oppose this Bill as it now stands.

The Honourable the ADVOCATE-GENERAL—I would like to know whether there are any provisions in this Bill to provide for the periodical inspection of boilers. Mr. Moylan has made an important reference to this point. There is no use in inspecting a boiler and giving a certificate if during the period covered by the certificate no further inspection can take place. Yet, so far as I have seen, there is no periodical inspection provided for, and apparently an inspector may grant a certificate for an unlimited period if he pleases.

His Excellency the PRESIDENT observed that that would be a gross breach of duty.

The Honourable Mr. ROGERS—I would like to say a few words in answer to the Honourable Mr. Bythell. The pith of his remarks was that because there have been very few accidents hitherto, therefore it is not worth while to take any measure at all to prevent them. But I am not of opinion that the question can be settled in that way. By great good luck—I cannot say by good management—such accidents have been rare. We must also take this fact into consideration, that though factories are few in number yet they are increasing every day, and this measure will therefore be much more useful in the future than it would be thought from the past. As to the argument that the Bill is unnecessary by reason of the present powers which magistrates possess under the Criminal Procedure Code, I think we may use the same argument which was used in regard to the Burials Bill. It is decidedly unsafe to leave such important matters to a magistrate, who may be capricious, or without sufficient technical knowledge to decide on them. Even though magistrates were to be allowed to exercise this power they would surely require the assistance or advice of some practical person, and this person we propose to make the inspector. The honour-

able member used as an argument for his case the fact that many deaths take place from incompetent boatmen and snake-bite. Government is perfectly aware that a great many lives are lost in the course of the year from the latter cause, and for this reason it has instituted a system of rewards to persons who kill snakes, and also distributed antidotes. Beyond this Government can scarcely go. It cannot legislate to prevent cobras from biting nor persons from dying after they have been bitten. But accidents from bad boilers come under the heading "preventible accidents," and by this Bill we seek to prevent their occurrence as much as possible. As to the honourable member's remark that this Bill will handicap unfairly British manufacturers in Guzerat I think he will find, if he makes inquiry, that in nine cases out of ten the manufactories are in British territory. With regard to the oppression that may occasionally accrue from unprincipled *employés* under this Act taking blackmail for the examination of boilers, and so on, I think that state of matters will be preventible by the provisions of the Penal Code.

The Honourable Mr. BYTHELL—Perhaps I may be allowed to make a few remarks in reply to the honourable member. He seems to think my argument regarding deaths from snake-bite weak, but I may repeat the reply which I gave to the Honourable Mr. Gibbs. The sum of two annas as a reward for killing a snake was found to be less effectual than could be desired, and in certain districts the reward was raised to 4 annas. Immediately this was done, however, the number of snakes killed was apparently so great, that the reward was reduced to two annas—showing that Government is not doing all it can to prevent deaths. With regard to the working of the Act, I have made inquiries both of Europeans and Natives, and I find they are inclined to think that oppression would result. Many Natives have come to me to talk over the subject, and I have not found any one person to say that at the present time oppression and injustice do not exist. On the contrary they say that they do exist—that oppression is carried on in a most objectionable manner. Many of these men mentioned circumstances which, as they were not substantiated, I cannot bring before the Council; but I heard of one case which I think I am justified in mentioning, because it was told to me without any secrecy and without hesitation. I was told it by a gentleman who is Agent of the Bombay Press Company. This Company has six large boilers and twelve presses, and Mr. Moylan gave a certificate to the effect that it would not be safe to work the boilers beyond 40 lbs. pressure. Soon after this, the Company engaged Mr. Moylan to manage the machinery. Mr. Moylan then put a cheap man in to work it, under his inspection, and this cheap man immediately worked the boilers up, it is said, to a pressure of between 45 and 50 lbs., and within a few months he reduced the presses to such a disgraceful state—breaking three out of twelve, in fact—that the presses were not capable of turning out more than sixty bales per day, whereas formerly they used to turn out one hundred bales per day. This arrangement with Mr. Moylan was very soon cancelled, and then things were put in better order. Now, that is one example of how the present Act may be worked.

His Excellency the PRESIDENT enquired whether this transaction took place with the Government Inspector; and

The Honourable Mr. BYTHELL having answered in the affirmative;

His Excellency the PRESIDENT asked whether the Company made no report of the transaction to Government.

The Honourable Mr. BYTHELL—No; I believe not. Although the Press is nominally under European management it is actually managed by Natives—some of the principal natives of Bombay.

His Excellency the PRESIDENT—And the honourable member says they made no report of the transaction to Government. Well, I think, they have no one to blame but themselves.

The Honourable Mr. BYTHELL—That is the point—Natives as a rule will not complain. They will pay and lose rather than take all the trouble of petitioning and so forth.

His Excellency the PRESIDENT—Then the honourable member's argument amounts to this, that any Government servant, even at the capital of the Presidency, can be guilty of any misconduct or any degree of corruption, and no one will say a word. These were people who had the greatest facilities for complaining; they had plenty of opportunity; and yet they held their tongue. Perhaps they got this man to be their manager in order to make it square with him about their boilers, and that probably accounts for their silence. The honourable member now brings this case up as an argument against the Bill, but it appears to me that it is a strong argument in favour of the Bill that even independent Natives in Bombay, who had nothing to fear, cannot protect themselves. It hardly can be said that we are inaugurating a new system of interference, because it is quite possible that our immunity from accidents is in consequence of Act VI. of 1869, and, as I understand it, the object of the present legislation is simply to extend to the mofussil a similar protection to the manufacturing classes of the lower orders as is at present enjoyed in Bombay. I may say that it is but fair to this Inspector in Bombay that such charges as this one which has been mentioned should be investigated; and if the honourable member will give me the name of the manager or secretary of the Bombay Press Company, we may be in a position to get at the facts of the case.

The Honourable Mr. BYTHELL—I was told of the affair by Mr. Brice, the manager of the Press Company.

His Excellency the PRESIDENT—And the honourable member says that these boilers were worked up to between 50 and 60 lbs., although Mr. Moylan said they ought not to be worked above 40 lbs. pressure? That is a very serious charge.

The Honourable Mr. BYTHELL—In any case, even supposing the charge were unfounded, it is objectionable that this man should put in his own nominee.

His Excellency the PRESIDENT—It is equally objectionable for the Company to have employed Mr. Moylan in the way they did.

The Honourable the ADVOCATE-GENERAL—There might be a clause in the Act that the inspectors shall not be employed otherwise than as inspectors, and that they shall be liable to the penalty imposed upon public servants for taking illegal gratifications.

The Honourable Colonel ANDERSON remarked that as magistrates, if left to act regarding boilers and machinery under the Penal Code, would be open to the advice of every spiteful person, this Bill in appointing competent inspectors would be a step in the right direction. If the Bill were not passed, he believed that the *adhawat* system would simply be encouraged.

The Council divided on the Honourable Mr. ROGERS' motion:—

Ayes—10.	*Noes*—2.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable A. ROGERS.	The Honourable J. K. BYTHELL.
The Honourable J. GIBBS.	
The Honourable the ADVOCATE-GENERAL.	
The Honourable Colonel M. K. KENNEDY.	
The Honourable Sir JAMSETJEE JEJEEBHOY.	
The Honourable E. W. RAVENSCROFT.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	
The Honourable Colonel W. C. ANDERSON.	

Bill read a second time.

The motion was therefore carried.

Bill considered in detail.

The Council then proceeded to consider the Bill in detail.

The Honourable Mr. RAVENSCROFT asked if Section 5 were meant to apply to locomotives.

The Honourable Mr. BYTHELL—No; yet, that is one of the points on which Mr. Moylan has expressed an opinion.

His Excellency the PRESIDENT—I think that to make railway companies amenable would be unnecessary, because they have their own locomotive superintendents.

The words: "or to work it at a pressure higher than that stated in the certificate" were added to Section 5; and in Section 6, line 30, "10" was substituted for "15".

The Honourable the ADVOCATE-GENERAL remarked that at present there was no provision in the Bill providing for a boiler being examined during the pendency of a certificate, which apparently might be granted by the inspector for as long a period as he chose. He begged to move that these words be added to Section 7:—"Provided that no such certificate shall be granted for a longer period than twelve months; and provided also that it shall be the duty of the inspector, on the request of the owner of any boiler or prime-mover in respect of which a certificate has been granted at any time before the expiration of such certificate, to inspect the boiler or prime-mover in respect to which the request is preferred, and, on being satisfied that the same is in good condition, to renew the said certificate for a further period not exceeding twelve months at his discretion." The honourable and learned member, in supporting his amendment, said he could quite imagine a case occurring in which four boilers attached to a certain mill would have their certificates all running out on the same day; but if this amendment were agreed to the owner might call in the inspector for one boiler at a time, and thus the whole mill would not be brought to a stand-still in consequence of every boiler fire being put out.

The Honourable Mr. MUNGULDASS—At present an owner is completely at the mercy of the inspector regarding the examination of boilers. If he chooses he may refuse to examine one boiler at a time, and insist upon examining all the boilers in an establishment at once, the result of which will be a great pecuniary loss and annoyance to the manufacturer. I personally have nothing to complain about the present inspector in this respect; but still I have heard complaints that the owners of other Spinning Mills are not so fortunate, and I am told that on one occasion a factory was closed for twenty or thirty

days simply because the inspector insisted upon examining all the boilers at once instead of one at a time.

The Honourable Mr. GIBBS—The important question arises, is one inspector sufficient?

The Honourable the ADVOCATE-GENERAL—There is power in the Bill to appoint more than one inspector.

The Honourable the ADVOCATE-GENERAL's amendment was agreed to.

The Honourable Mr. BYTHELL called the Council's attention to Section 6, and remarked that, as in Bombay the inspector had to give notice when he was coming to inspect a boiler, a similar rule should prevail for the mofussil. He begged to move the insertion of the following words after "notice" in line thirty: "and shall inform the owner of the date on which the said inspection will take place."

The amendment was agreed to.

The Honourable Colonel KENNEDY thought it would better to alter Section 8 so as to leave it open to Government to appoint a commission when necessary.

A series of alterations were then made upon the section after which it read thus:—"Government shall as occasion may require appoint Commissions for hearing appeals preferred by owners as provided by this Act, or for conducting inquiries on applications made by Collectors under Section IV. of this Act, and such Commissions shall consist of such person or persons as the Government from time to time shall nominate, and shall endure for such term as the Government shall appoint."

The section was agreed to.

The Honourable Mr. BYTHELL said that Section 9 was vague, in consequence of no time being stated within which an inspector should be bound to give an owner his reasons for refusing to grant him a certificate for his boiler.

The Honourable the ADVOCATE-GENERAL suggested that the inspector be made to give his reasons within twenty-four hours from the time he inspected the boiler.

The Honourable Mr. RAVENSCROFT considered that it might prove very oppressive also to a boiler-owner if it were not laid down within what time a Commission should inquire into an appeal lodged against the decision of an inspector.

His Excellency the PRESIDENT concurred.

The section was then amended by the Honourable the ADVOCATE-GENERAL to run thus—"If an inspector refuse to give a certificate to the owner of any boiler or prime mover under Section VII. of this Act, he shall be bound to give to such owner in writing, within twenty-four hours, his reasons for said refusal, and any owner aggrieved by the decision of the inspector may, within one month from the date of said refusal, lodge with the Collector an appeal to be heard by a Commission appointed under Section VIII. of this Act. The Collector shall thereupon forthwith forward to the Commission the petition of appeal, and the said Commission shall within four days after the date of the receipt of such petition of appeal, if such boiler or prime mover be situated in the city of Bombay, and within ten days after the date of the receipt of such petition of appeal, if such boiler or prime mover be situated elsewhere than in the city of Bombay, inquire into and determine such appeal, and shall, if it think fit, grant a certificate," &c.

His Excellency the PRESIDENT asked if the Commission were to be paid.

The Honourable Mr. BYTHELL said that the present Commission in Bombay get fees.

The Honourable the ADVOCATE-GENERAL said the question would settle itself, because if a member of a Commission were a Government servant his right to remuneration would be determined by Government, whereas if he were not a Government servant he would refuse to do the work unless he was paid.

The section was then agreed to.

In line six of Section VI. "periodical or otherwise" was deleted.

It was decided that the emoluments of commissioners and inspectors should be fixed by rules framed by Government, and in the sixth line of Section XI. "of," after "duties," was struck out, and these words substituted for the end of the section :—"and emoluments of commissioners and inspectors appointed under this Act."

Regarding Section XII. the Honourable the ADVOCATE-GENERAL doubted the utility of providing that owners of boiler certificates should be compelled, when necessary, to show their certificates to a magistrate.

In lines seven and eight of Section XIII., "five hundred rupees" was deleted and these words inserted after "exceeding" in line seven :—"Rs. 100 for every day that he shall use the said boiler or prime mover without such certificate." In line fourteen, "one" was substituted for "five," and after "rupees" these words were inserted :—"for each day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction."

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 9th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Wednesday, the 10th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable Sir, AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable COLONEL W. C. ANDERSON.

The Boiler Inspection Bill considered in detail.

The Council proceeded with the consideration of the Boiler Inspection Bill in detail.

The Honourable Mr. BYTHELL—The motion of which I have given notice is that all the sections from fourteen to the twenty-second be expunged, but as I only wish to object to those sections which declare that no boiler shall be in charge of any person not a certificated engineer, perhaps I may be allowed to amend my motion to that effect.

Section XIV. was then agreed to.

On the suggestion of His Excellency the PRESIDENT, Section XV. was amended as follows:—all the words after "Council," in the second line, to and including "behalf," in the sixth, were deleted; "two" in the seventh line was made "one"; and in line ten the words "from time to time make rules which shall be published in the *Government Gazette*" was inserted after "may" and the words "make rules" struck out.

The Honourable Colonel KENNEDY—I may mention here that it has been suggested to me that it would be better to have a provision inserted here similar to the provision in the Steam Vessels Bill, that any person who has served a certain time in charge of a steam boiler shall *ipso facto* be granted a certificate of competency.

A discussion here took place as to whether inspectors should be under a Collector or that of the Commission, and it was decided to abide by the rule of procedure laid down by the amendments in Section IX.

The Honourable Mr. GIBBS agreed with what the Honourable Colonel Kennedy had said, because the whole object of Government was to get competent men to look after boilers, and it did not care where that competency was obtained so long as they had it.

The Honourable Mr. NARAYAN concurred, and referred to the intimation of Mr. Cursetjee Cowasjee, of Bhandoop, that he had a man who had worked his boilers for forty-two years, who was a very good practical engineer, and it would be a hardship for him to lose his situation because he was not possessed of a certificate.

The Honourable Mr. BYTHELL and the Honourable Mr. MUNGULDASS also concurred.

The first part of Section XVI. down to "every," in the fourth line, was then deleted and the whole section was amended to read thus—"Every applicant who is reported by the examiners to have passed the examination shall receive a certificate of competency to the effect that he is competent to act as engineer, signed by the examiners and countersigned by a Secretary to Government; and every person who shall satisfy the said examiners that he has before the passing of this Act efficiently served for a period of not less than one year as first or only engineer in charge of any steam boiler or prime mover of more than 10 horse-power nominal, shall be entitled to a certificate of competency."

Engineers with a year's experience to be granted a certificate.

Section XVI. was then agreed to as amended.

His Excellency the PRESIDENT suggested a series of amendments upon Section XVII., relating chiefly to penalties upon engineers in the event of their misconduct. The first part of the section was struck out and, as a whole, it was altered to read as follows:—

"If by means of any inquiry, conducted under the provisions of this Act, the misconduct, negligence, or incompetency of any engineer possessing a certificate of competency is established to the satisfaction of the Governor in Council, it shall be lawful for the said Governor in Council to cancel such certificate or to suspend the same for such time as to him shall seem fit."

The question was raised whether the certificates of competency of foreign engineers could be cancelled by the Governor in Council, and the Council inclined to the belief that the Governor in Council had power to suspend these foreign certificates in India, but not to cancel them.

The Honourable Mr. GIBBS asked what constituted a "competent authority" to grant certificates.

The Honourable Mr. ROGERS—That question has been found one of so difficult a nature that we could not exactly define it, and the matter will probably have to be left to the discretion of examiners.

Section XVII. as amended was then agreed to.

Section XVIII. was agreed to after being altered to the following shape:—"A certificate of competency shall be granted by the examiners to any engineer in possession of a certificate of competency granted by any competent authority in the United Kingdom or in British India or in any British Colonial possession, and the certificate so granted by the examiners shall be liable to be cancelled or suspended as provided in the preceding section."

The words "or of such commission as aforesaid" were struck out of lines four and five of Section XIX.

Regarding Section XXI., the Honourable Mr. BYTHELL said—The alterations which have been made upon Section XVI. so completely take the sting out of this section that I withdraw the amendment which I proposed upon it. At the same time, it appears to me that what we ought to endeavour to prevent is not so much incompetence on the part of the engineer as drunkenness or inattention on the part of the firemen. An engineer may be in charge of a spinning mill containing perhaps half-a-dozen boilers and a pair of large engines. He only visits the boiler house once or twice a day because the rest of the machinery is so complicated as to demand most of his attention, and yet the fireman, or the man practically in charge of the boilers, may cause an accident by his negligence or intemperance.

His Excellency the PRESIDENT—Yesterday the honourable member said that a very respectable establishment in Bombay thought it desirable to bribe a Government officer in order to work the boilers at a higher pressure than he said they could bear; and that this inspector put in a cheap engineer, who at once caused accidents among the machinery.

The Honourable Mr. BYTHELL—I think His Excellency must have misunderstood what I said yesterday. I said this company made an arrangement with this Government inspector to work the whole concern.

His Excellency the PRESIDENT—And that he first obstructed the company by saying they must not work their boilers beyond a pressure of 40 lbs. ?

The Honourable Mr. BYTHELL—No, Sir. The man previously employed by the company having had the offer of a better situation had gone up-country; but it was certainly prior to the date of this man leaving the company's employment that the inspector said the boilers could not be worked beyond a pressure of 40 lbs. On this man leaving, the directors wished to appoint somebody to the vacancy, and, I suppose, they must have had an application from Mr. Moylan because they appointed him, and then he put in his own man. My statement was that I was told that this man actually did work the boilers to a higher pressure than 40 lbs.

His Excellency the PRESIDENT—I understood the honourable member to say yesterday, as an instance of the corruption that at present went on, that this inspector said these boilers would not carry more than 40 lbs. to the square inch, and subsequently this same inspector became manager of the concern; put in his own man; the boilers were worked beyond 40 lbs.; and gave way.

The Honourable Mr. BYTHELL—I referred to the machinery. I said that I had noticed that the new engineer in charge was not able to work the presses so effectually as his predecessor, and as a matter-of-fact he broke three machines out of twelve. I saw from actual observation that he was not able to work the presses so well as his predecessor. I never heard or said that there was any question of arrangement with Mr. Moylan as to the pressure the boilers should be worked at.

The Honourable Mr. GIBBS—I thought the honourable member said so, at all events, that the boilers were worked at a higher pressure than that which was stated in Mr. Moylan's certificate, and by the man he had put in.

His Excellency the PRESIDENT—I must say that I was given the distinct impression yesterday that the company's arrangement was an arrangement to be improperly accommodated by Mr. Moylan with respect to their boilers.

In line 18 of Section XXIV., "64" was substituted for "63." In line 24, "fees payable and all" was inserted before "fines."

"Commission appointed under this Act or of the" was struck out, and "Collector of Bombay or" substituted in lines 8 and 9 of Section XXV.

The Honourable Mr. BYTHELL wished it to be laid down that no inspector should be allowed to be interested in any factory or machine or boiler agency.

The Honourable Mr. NARAYAN said that the inspector would be amenable to the rules affecting public servants.

The Honourable Mr. GIBBS observed that any man can be at once removed who does not do his duty properly.

Schedule A was agreed to.

To the heading of the seventh column in Schedule B these words were added :— " and maximum pressure at which the boiler may be worked."

The preamble and title were also agreed to.

Colonel Anderson added to the Select Commitee on the Mofussil Municipalities Bill.

On the motion of the Honourable Mr. GIBBS, the Honourable Colonel Anderson was added to the Select Committee on the Mofussil Municipalities Bill in addition to those already appointed, as the Honourable Mr. Ravenscroft was compelled to leave Poona for Bombay on business.

Petitions to Council.

The Honourable Mr. BYTHELL said that he should like if it were agreed to that petitions regarding any of the Bills before the Council should be printed and circulated among honourable members. Many of these petitions were of great interest, and when they were read just before the consideration of a Bill, it was impossible for honourable members to get the full value of the suggestions in the petitions.

The Honourable Mr. MUNGULDASS suggested that all such petitions should be printed.

His Excellency the PRESIDENT thought it would lead to a great deal of unnecessary expense if every petition received by Government were to be printed, but he suggested that members of Select Committees might decide upon the circulation of petitions which appeared to them to be important.

The Honourable Mr. ROGERS said he would be happy to furnish members with the more important petitions upon the Salt Bill.

The Honourable Mr. GIBBS said the same with regard to petitions about the Mofussil Municipalities Bill.

Colonel Kennedy moves the second reading of Steam Vessels Survey Act Amendment Bill.

The Honourable Colonel KENNEDY, in moving the second reading of the " Bill to amend Bombay Act No. II. of 1864, providing for the periodical Survey of Steam Vessels, and to provide for the examination of Engineers of Steam vessels, " said :—When this Bill was before the Select Committee, the Honourable Mr. Bythell gave us a number of communications on the subject from the Bombay Chamber of Commerce, and these were duly considered. There seems to me to be a difference of opinion as to the necessity or non-necessity of the Bill, but upon the whole I think it is considered necessary by those gentlemen who have given their attention to the subject. The chief point of contention was, that certificates should be granted to those vessels armed with certificates from Colonial and British Indian Governments as well as from the Board of Trade. A suggestion had been made by one or more letters to newspapers that it would not be fair for us to make this Bill applicable to British vessels and allow foreign vessels to go free, but regarding this point, the Committee did not feel competent to decide the question whether this Government had any power to apply the Act to vessels sailing under a foreign flag. The Bill was therefore left as it stood originally—only applicable to British steam vessels.

The Secretary here read a petition regarding the Bill which had been received from the Secretary of the Bombay Chamber of Commerce.

The Honourable Colonel KENNEDY said that that petition did not offer any great objection to the Bill as it stood. If cargo steamers were provided with proper certificates, he thought there would be no objection to granting the immunity asked for them. As

regards the examination of native engineers in charge of small craft, he was of opinion that Section XI. provided for their case. As regards the examination of steam-tugs, launches, &c., he did not see what more the Chamber of Commerce required.

His Excellency the PRESIDENT remarked that the Chamber of Commerce did not wish these to come under the action of the Bill at all.

The Honourable Colonel KENNEDY—In that case, we can have no objections to meet them.

His Excellency the PRESIDENT—This is just the same principle as we adopted in the Boilers Bill when we exempted machines under 10 horse-power.

The Honourable Colonel KENNEDY—Just so. As regards foreign vessels, I have already explained that the Committee thought such a question had better be left to the full Council. With these remarks I beg to propose the second reading of this Bill.

Bill read a second time and considered in detail.

The motion was agreed to, and the Council proceeded to consider the Bill in detail.

The Honourable Mr. BYTHELL—Sir,—I think there ought to be some amendment made upon this first section. As already pointed out in the letter of the Chamber of Commerce many vessels coming direct to Bombay do not carry a Board of Trade certificate; and some gentlemen have pointed out to me that the section as it now stands would not exempt from survey here a new ship of the best class in Lloyds' and just off the stocks, because such a ship immediately upon its arrival in Bombay, a comparatively small port, would be boarded by Indian surveyors. I understand that one of the objects for which this Bill was introduced was to remove such cases of hardship as this. The amendment I beg to propose is that no vessel arriving in Bombay from Great Britain or Ireland which has not been absent from port in either of these places for a period longer than six months shall be liable to be surveyed in Bombay. I do not think this amendment could lead to any injurious effects.

Mr. Bythell thinks that vessels provided with insurance certificates ought to be exempted from liability to survey in Bombay.

The Honourable Mr. GIBBS—Supposing a vessel leaves, say, Liverpool without a Board of Trade certificate, is it examined at all in Liverpool before it sails?

The Honourable Mr. BYTHELL—Yes; vessels are examined by the Underwriters' Association. A ship is always insured, but neither her cargo nor hull can be insured unless she has a certificate from the Underwriters.

The Honourable Mr. GIBBS—Then would it not be better simply to exempt vessels with a Board of Trade or an insurance certificate?

The Honourable Mr. BYTHELL—Yes—if the certificates were granted by certain Underwriters' Associations.

The Honourable Mr. GIBBS—Do accidents never occur to steamers between Britain and Bombay?

The Honourable Mr. BYTHELL—Very few.

The Honourable Colonel KENNEDY—I have a list of such accidents before me, and I think they have been more numerous than the honourable gentleman is aware of.

The Honourable Mr. NARAYAN—I think that Mr. Plimsoll has pointed out that proper precautions are not taken with a good many steamers which leave England.

His Excellency the PRESIDENT—I have seen a good deal connected with shipping, and I have not the least doubt of there being a great necessity for reform.

The Honourable Mr. BYTHELL—If the Council adopts the principle—as it will if it declares that after a short thirty days' run from England a steamer may be surveyed upon arrival here—of vessels having to be surveyed at whatever port may be their destination, there will be nothing to hinder every little port in the Mediterranean from setting up a right to survey British steamers.

His Excellency the PRESIDENT—The matters treated of in this Bill have been all laid before the Board of Trade, which doubtless is desirous of removing restrictions from British shipping as much as possible, and therefore I think this Council ought to be very cautious in proceeding in this matter. I believe that everything which the Board of Trade asked us for is already granted in the Bill, and I repeat we ought to be very cautious before acting in the direction desired by the Honourable Mr. Bythell.

The Honourable Mr. GIBBS— I certainly think that steamers with no certificate at all ought to be surveyed.

Vessels provided with certificates granted by the Lloyds' Association or by the Liverpool Association of Underwriters to be exempted.

After some further consideration, "or by Lloyds' Association of Underwriters or by the Liverpool Association of Underwriters" was inserted between "Government" and "shall" in line 21.

Section I. was then agreed to.

The same words were placed after 'Government' in line eleven of Section II.

His Excellency the PRESIDENT said he could not see the force of the Chamber of Commerce's objection to the third section.

The Honourable Mr. BYTHELL could not remember the reasons which induced the Chamber to make the objection.

Sections relating to the examination of engineers made similar to the amended sections on the same subject in Steam Boilers Inspection Bill.

The Council then proceeded to make alterations upon the remaining sections—relating to the examination of engineers—similar to those which were made upon the corresponding sections in the Steam Boilers Inspection Bill.

In Section IX., "or any Board or officer duly authorised by him in that behalf" was struck out from lines 2, 3, 4, and 5; in line 5 "one" was substituted for "two"; in line 8, "which shall be published in the *Government Gazette*" was inserted after "rules."

In Section X., "The Governor in Council, or such Board or officer as aforesaid, shall deliver to" was struck out from lines 1, 2, 3, and 4, "Every" commencing the section; "shall receive" was inserted after "satisfactorily" in line 6; and the following words were added after "Engineer" in the 9th line—"signed by the examiners and countersigned by a Secretary to Government."

In line one, Section XI., "shall satisfy the examiners that" was placed after "who"; "he" was placed before "has" in line three; "competency" was substituted for "service" in line nine. The remainder of the section from "Each" downwards was deleted.

In Section XII., the following words were inserted before "unless" in the third line—"other than steam vessel holding a certificate granted by the British Board of Trade or by any British Indian or British Colonial Government, or by Lloyds' Association of Underwriters, or by the Liverpool Association of Underwriters"; and in line nine "or a certificate of service" was struck out.

Section XIV. was agreed to after the last three lines were made to read as follows:—"operation of this Act, steam tugs, steam barges, and steam launches."

APPENDICES

TO THE

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR OF BOMBAY, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS ON THE 27TH SEPTEMBER 1899.

APPENDIX A.

No. 1220 OF 1899.

ORIENTAL TRANSLATOR'S DEPARTMENT,
Bombay Castle, 2nd September 1899.

TRANSLATION.

REVENUE CIRCULAR No. 425.

FROM

THE COLLECTOR OF SA'TA'RA;

To

THE MA'MLATDA'R OF TA'LUKA

Whereas it has come to the knowledge (of the undersigned) that village officers, *viz.* Patels and Kulkarnis, do not collect the revenue of alienated villages of Dumaldárs in time and cause much confusion in the work of revenue collection, it is (hereby) directed that, with a view to ensure supervision over the revenue collections of all alienated villages in your táluka, a return in the accompanying form should be submitted to the undersigned each quarter, showing the collections and arrears of revenue in respect of each alienated village. Let this be known.

(Signed)
Collector.

Dated March 1899.

(True copy)

(Signed) (illegible),
Chitnis.

M. A. BAIG,
Oriental Translator to Government.

Statement of collections and arrears of revenue in respect of alienated villages in Táluka , District Sátára.

1	2	3	4	5	6	7	8
No.	Name of Village.	Past arrears.	Amount due for the current year as per Lavani Patrak.	Total amount due.	Amount collected.	Balance outstanding.	Remarks giving reasons for the outstanding balance.

APPENDIX B.

Statement showing assistance cases received and decided during the years 1895-96 @ 1897-98.

Year.	Cases received.	Cases in which assistance granted.	Cases in which execution-proceedings are completed.	Cases in which execution is still going on.	Number of cases yet to be decided.	Remarks.
1895-96	747	453	217	236	...	The decrease in the cases during the year 1897-98 is due to the fact that many cases were returned as time-barred owing to their not having been filed within the year of tenancy. In consequence of this the parties tried to recover their rents through the Civil Courts and resorted to the Mamlatdars' Courts Act in order to obtain possession of the lands. This has led to an increase in cases under Act III of 1876.
1896-97	731	284	57	227	236	
1897-98	215	1	1	...	204	

APPENDIX C.

Government of India, Finance Department, Notification No. 342-S.R., dated 20th January 1897.

In exercise of the powers conferred by Section 8 of the Indian Stamp Act (I of 1879) the Governor General in Council is pleased to remit the whole of the duties chargeable under the said Act on instruments executed after this date and prior to the 1st January 1898, for securing the repayment of loans made by landlords to their tenants or persons holding under their tenants for any of the objects specified in Section 4 of the Land Improvement Loans Act (XIX of 1883) or in Section 4 (1) of the Agriculturists' Loans Act (XII of 1884):

Provided that the exemption conferred by this Notification—

(1) shall extend only to such distressed areas as the Local Government may by notification in the Local Official Gazette declare in this behalf, and

(2) shall apply only to instruments in which

(*a*) the object for which the loan is made is set forth in the body of the instrument, and

(*b*) the rate of interest reserved on the loan does not exceed four *per cent. per annum.*

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

The first three lines and " of " in the fourth line were struck out of Section XV., and these words substituted—" If by means of any inquiry conducted under the provisions of this Act" ; and in lines six and seven " is established to the satisfaction of the Governor in Council it shall be lawful for the said Governor in Council," was substituted for " or a certificate of service." Section XV. was then agreed to.

Section XVI. was deleted as being unnecessary in consequence of alterations upon previous sections.

In Section XVII., " whether " was struck out of the first line, and " or service " from the second.

In Section XVIII., " or of such other authority as aforesaid" was struck out of lines 4 and 5.

In Section XX. " from such date as the Governor in Council may determine by notification in the *Government Gazette*," was inserted after " effect " in the second line, and the remainder of the section was struck out.

The Honourable Mr. GIBBS suggested that the shape of the Bill should be made similar to that of the Bengal Acts—that is divided into " parts" for each separate subject treated of.

The suggestion was agreed to, and the last three sections of the Act were carried to the front of the Bill, where their numbering was reversed, the last going first. " Part I.—Preliminary " was placed after the title ; and " Part II.—Examination of Engineers " was placed before what was Section VIII. as the Bill originally stood. In consequence of these alterations the whole of the numbering of the sections in the Bill was altered and the preamble and title of the Bill were then agreed to.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 10th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Wednesday, the 17th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable COLONEL W. C. ANDERSON.

Mr. Rogers moves for permission to withdraw the Bill to amend the Law relating to Hereditary Village Offices.

The Honourable Mr. ROGERS, in moving for permission to withdraw the Bill to amend the Law relating to Hereditary Village Offices (Bill No. 2 of 1873), remarked that it would be within the recollection of the Council that at the last meeting he asked for an extension of the time granted to the Select Committee in which to present their report on this Bill, in order to enable him to place before the Select Committee a new draft Bill prepared by Mr. Jardine. The Select Committee had fully considered the Bill referred to them by the Council before the new Bill was submitted to them. On deliberation, however, it was considered impracticable for the Select Committee to submit to the Council as the Bill amended and improved by them the draft Bill prepared by Mr. Jardine, as that Bill had not been published or formally introduced and had not been actually referred to the Select Committee by the Council in conformity with the Rules. It was therefore deemed advisable to ask for permission to withdraw Bill No. 2 with a view to introducing at once the new Bill on the subject of Hereditary Offices. This Bill had been drafted with much care and ability by Mr. Jardine, and was in several respects superior to the Bill now proposed to be withdrawn. Its phraseology was more distinct, legal and concise: and in the classification of its provisions and the arrangement of its sections it was also better than Bill No. 2. Its provisions and principles differed in some respect from those of the Bill first introduced, but in the main it was the same measure in an altered form.

Bill withdrawn.

His Excellency the PRESIDENT then observed that as no honourable member appeared to object to the proposal, the permission applied for might be concluded to be given and the motion held to be assented to. He would propose that the new Bill should be introduced and read a first time at the earliest possible date, and that then the Bill should be read a second time and considered in detail by the Council. It would not be necessary to refer it to a Select Committee, as the Bill now withdrawn which dealt with the same subject in a somewhat similar manner had been fully discussed by the members of the Select Committee, and no further advantage would seem likely to accrue from and no additional information would

be obtained by referring this Bill to a Select Committee. After the Bill had been read a second time and its provisions fully considered by the Council, the third reading would be deferred until the Council met in Bombay in the cold season, and in the meantime translations of the Bill as amended in Council would be published for the information of the public.

After a few remarks by the Honourable Messrs. GIBBS and MUNGULDASS NUTHOOBHOY expressive of their concurrence in the course proposed to be adopted by His Excellency the President, the Council was adjourned.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
Acting Under Secretary to Government.

Poona, 17*th September* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Thursday, the 25th September 1873, at noon.

PRESENT:

His Excellency the Honorable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

Papers presented to the Council.

The following papers were presented to the Council:-

1. Letter from the Superintendent, P. and O. Steam Navigation Company, bringing to notice certain defects in the "Steam Vessels Survey Act Amendment Bill."
2. Letter from the Secretary to the Government of India, conveying the assent of His Excellency the Viceroy and Governor-General to the "Bill to alter and amend the Bombay Municipal Act of 1872."

Before the Council proceeded to consider the Bills and Orders of the day, the Honourable Mr. Bythell said that up to the 22nd instant an amended copy of the Steam Boilers Bill, as considered and amended in Council, had not been published in the *Government Gazette*, and people who were interested in the Bill were unable to obtain a copy of it. He therefore begged respectfully to suggest that the third reading of the Bill ought to be postponed until it was published anew in the *Government Gazette*.

Mr. Bythell suggests the publication of Bills as amended in Council.

His Excellency the PRESIDENT reminded the honourable member that there was no rule to make Government publish Bills before they came on for the third reading. To publish Bills each time that they were amended would be exceedingly inconvenient, besides leading to great expense.

The Honourable Mr. BYTHELL was aware that there was no rule to that effect, but when considerable alterations had been made upon a Bill at its second reading, he considered that it would be only just to those whose interests were affected if amended copies of the Bill were published. In that way only could people make representations upon the Bill before it was too late.

His Excellency the PRESIDENT said that the only rule relating to the publication of Bills was, that wherein it was laid down, with reference to the introduction of a Bill, that no motion that it be read a first time shall be made until seven days after a copy of the Bill and of the Statement of Objects and Reasons had been furnished to each member.

The Honourable Mr. BYTHELL repeated that he was aware there was no rule relating to what he desired, but nevertheless as a matter of policy it would be better to republish a Bill upon which extensive alterations have been made, so that those whose interests were concerned might have an opportunity of knowing what was actually proposed to be done.

The Honourable Mr. GIBBS said he thought he was in a position to say that the public in Bombay were aware of what had been settled regarding the Steam Boilers Bill and Steamers Inspection Bill at the second reading, because he had had interviews with two gentlemen who had come to Poona to consult him upon changes which had been effected upon these Bills on the second reading.

The Honourable Mr. BYTHELL repeated his views, and the subject dropped.

The Council then proceeded to the third reading of Bill No. 7 of 1870 (a Bill for the Regulation of Burial Grounds and Burning Grounds and places for the Exposure of the Dead in the territories subject to the Government of Bombay, without the limits of the City of Bombay).

His Excellency the PRESIDENT, before the Bill was read a third time, moved a series of verbal amendments upon it, which were agreed to. In the 23rd line of Section I. "then the same shall be registered" was inserted before "by." In line 28, Section II., "not exceeding" was substituted for "which may extend."

Amendments proposed in the Burial Grounds Bill.

In line 55, Section III., "and shall register such place in the book ordered to be kept in accordance with Section I. of this Act" was added after "purposes."

His Excellency the PRESIDENT thought that in lines 42, 43, 44, and 45 these words were unnecessary:—"and when there shall be no public place available for the purposes above-mentioned, situated within a convenient distance."

The Honourable Mr. MUNGULDASS—I believe that the public places here meant are the public places used for the burning and burial of the dead of the different communities; because the Hindoos as well as the Mahomedans have public as well as private burning and burial places. In public places any member of a community has a right to burn or bury, while in a private burning or burial place only the particular parties to whom the place may belong are allowed to burn or bury.

After some remarks from the honourable members, the amendment was not pressed.

In line 9, Section V., "and every place so provided shall be registered in the book ordered to be kept in accordance with Section I. of this Act" was added after "dead."

In line 6, Section VI., "to" was substituted for "in"; line 8 was deleted, and these words were substituted: "or any other Act for the time being in force for the regulation of Municipalities in the Presidency of Bombay applies a."

In line 12, Section VII., "to" was substituted for "in"; in line 13, "has not been introduced" was deleted, and these words were substituted: "or any other Act for the time being in force for the regulation of Municipalities in the Presidency of Bombay does not apply."

His Excellency the PRESIDENT mentioned that he had that morning received a letter pointing out the painful position in which certain Christian families were placed with respect to burials in vaults already partially occupied by members of the families. As the law stood at present, it appeared to His Excellency that the prohibition to open vaults for a new burial was peremptory.

The Honourable Mr. GIBBS said that the Governor in Council could give permission in certain cases. Already permission had been granted for three burials per annum in the Roman Catholic Cathedral of Bombay.

The Honourable Messrs. NARAYAN and MUNGULDASS pointed out that by the last Municipal Act power was given to grant licences to bury in certain cases.

His Excellency the PRESIDENT remarked that at all events none of the suggestions in the letter could be acted upon at present, because the Bill before the Council did not relate to Bombay.

The Honourable Mr. GIBBS asked if it would not be necessary to insert in the second section words to the effect that licenses to bury in churches might be granted not only by the special sanction of the Governor in Council but also by some officer "authorized by him to give it." The reason for this alteration was that in some up-country stations where there was no telegraph it would be practically impossible to obtain the sanction of the Governor in Council in time to allow of a burial in a church taking place.

The Honourable Mr. ROGERS thought that Tanna was the only place in the mofussil where burials in churches had ever taken place.

The Honourable MR. GIBBS said that Sir Edward West, a former Chief Justice of Bombay, and Sir Robert Grant were buried in St. Mary's Church, Poona.

The Honourable the ADVOCATE-GENERAL said that it would often be as difficult to find the Collector as the Governor in Council, and that if any emergency did arise to necessitate a vault burial it would be unlikely that Government would enforce the penalty of Rs. 500.

His Excellency the PRESIDENT thought that it was very advisable to retain the power in the hands of the Governor in Council, because the pressure which parties might bring to bear upon an official in such cases would be very great.

The Council concurred.

Bill read a third time and passed.

His Excellency the PRESIDENT then put the motion—that this Bill be read a third time.

The motion was agreed to, and the Bill was then passed.

Third reading of the Boilers Inspection Bill proposed.

The Council then proceeded to the third reading of Bill No. 7 of 1873—A Bill to provide for the Periodical Inspection and the Management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the city of Bombay and within certain districts in the Presidency of Bombay.

A telegram which had been received from Mr. J. A. Forbes, Bombay, embodying resolutions passed at a meeting held in Bombay on the 24th September of persons interested in steam machinery was presented to the Council. The resolutions suggested to His Excellency the President the advisability of postponing the third reading of the Bill for a period of three months, and in the meantime appointing a Commission to inquire into how the Boilers Inspection Act of 1869 had worked since its introduction. The resolutionists believed that much irregularity and corruption had arisen out of the working of the Boilers Inspection Act of 1869, and suggested that a Commission of Inquiry by Government should be appointed for the purpose of thoroughly investigating the matter, and that in order to make that inquiry as complete as possible Government ought to assist those

persons who were desirous of giving evidence, and who may have entered into questionable transactions with the present Boilers Act Inspector.

His Excellency the PRESIDENT—The Council can hardly fail to observe that this Bill has now been a long time before the public, and that the objections which have now been made by this meeting in Bombay could just as easily and more appropriately have been made when the Bill was first published and it became known that Government was going to legislate upon the subject. Yet we find the meeting I am referring to actually, when the Bill is about to be read a third time—at the very last moment in fact—telegraphing to us to stop the Bill for three months and appoint a Commission of Inquiry into so-called irregular transactions which have been entered into by certain persons in Bombay with the present Inspector. We have no definite evidence before us that these irregularities exist, and we know that the case mentioned by the Honourable Mr. Bythell did not turn out upon further explanations to be of the nature which we understood him to represent it to be. In the course of our careful consideration of this Bill, we have come to the understanding that an Inspector must not take private work of the description alluded to by the adopters of these resolutions. For my part I would rather agree to give the Inspector a proper salary than allow him to enter into arrangements with those whose boilers or machinery he has to inspect. We are asked here to promise to indemnify people who have bribed the Inspector—at least, that is my understanding of the resolutions. But I do not think we could agree to invite everybody to come forward to a Commission and tell any story he pleases against the Inspector, and at the same time promise to indemnify him for doing so.

The Honourable Mr. BYTHELL said:—Why no representations were made by the Chamber of Commerce arose in this way. Several suggestions were sent into the Committee of the Chamber by various members, who asked the Committee to oppose the Bill. I brought up some of these proposed alterations to the Select Committee meeting in Poona. I afterwards handed them over to the Secretary of the Chamber, and they were again subsequently discussed at a Committee meeting of the Chamber. At that meeting it was understood that the Secretary should go through the recommendations and embody the sense of them in a letter. I was asked at the same time to endeavour to get the Bill thrown out. When the Secretary's letter came up to me here, however, I found that it simply asked for the delay of the Bill. As the Bill had been before the public for some weeks, I thought it most advisable not to hand the letter to the Council—a discretion which, as Chairman of the Chamber, I thought I would be justified in exercising. The meeting which adopted these resolutions which have been sent to us by telegram was a public meeting, and not specially a Chamber of Commerce meeting.

His Excellency the PRESIDENT—At all events we have heard from the honourable member the objections raised by the Chamber of Commerce to the Bill, whose views he has, I presume, expounded here. That being the case, and the Chamber of Commerce having, as we have heard, had the Bill under their consideration for a considerable time past, it seems to me that it would be very unadvisable to adopt the suggestions of those who attended the public meeting in Bombay. That meeting should, I think, have been held at an earlier stage if those of whom it was composed really had the interests of the public at heart.

The Honourable Mr. MUNGULDASS—Although I cannot urge that this Bill should be postponed for so long a time as three months, or even that a Commission should be appointed, yet I would submit that the Council cannot suffer any inconvenience if the passing of the Bill

is delayed until the first meeting of the Council next week. A few days more or less will not make much difference; neither a special meeting of the Council will be necessary for the passing of this Bill, as we are going to sit consecutively for some time. I am therefore encouraged to submit that the applicants for the postponement may be informed that they may send their representation without delay; and the Bill need not be passed to-day.

His Excellency the PRESIDENT—I think it is our duty here to proceed with the business as quickly as possible consistent with due care. What we are now asked for is not a delay of simply a day or two, but a delay of three months in order that a Commission of Inquiry be appointed.

The Honourable Mr. BYTHELL—I think, as the Honourable Mr. Munguldass suggested, that it would not produce any inconvenience if the Council were to postpone the third reading of the Bill for a day or two, in order that we may obtain fuller information from Bombay.

The Honourable Colonel KENNEDY—The telegram is very full, and I see no middle course allowed us between proceeding at once with the Bill and postponing its final reading for three months.

The Honourable Mr. GIBBS—The telegram says: "It is the opinion of the meeting that if Government were to adjourn the third reading of the Bill for a period of three months and issue a commission of inquiry upon the working of the old Act much valuable information would be obtained, especially as it is currently reported that great irregularities and much corruption have arisen." The telegram goes on to say that the meeting is of opinion that a Commission should be appointed for the purpose of investigating the charges against the Inspector, and for that purpose that all persons who have rendered themselves liable to a certain section in the Penal Code shall have indemnity given them by Government, and that they shall not be prosecuted if they prove the case against somebody else who takes a bribe. This telegram leaves us to do one of two things—either to adjourn the consideration of the third reading for three months or to proceed with it at once. There is no middle course asked for, and for my part I do not think any grounds have been shown to us why we should adjourn the third reading for three months. The purport of the meeting is evidently to get a Court of Inquiry appointed into the charges brought against the Inspector by the Honourable Mr. Bythell.

The Honourable the ADVOCATE-GENERAL—I may point out that this Commission of Inquiry has nothing to do with the principle of the Bill, because a Commission may be granted after this Bill is passed quite as well as before it is passed. The gentlemen who have met at the Chamber of Commerce seem themselves to admit that that Act for the Inspection of Boilers is necessary, because they tell us that if a Commission is appointed "certain useful information" may be obtained as to the working of the present Act. As this meeting did not choose to meet until the last moment, although the Bill has been before the public for so many weeks, I must say that it does not appear that they could have much to say against the Bill, otherwise they would have said it sooner. I do not think there is any good reason for postponing the third reading of this Bill.

His Excellency the PRESIDENT—The Honourable Mr. Munguldass has suggested that, for some reason or other which does not appear plain to me, we should put off the third reading of this Bill for a day or two, a course which he thinks can do no harm. But I think if he considers the circumstances for a moment, he will admit that there is something due to the credit of this Council and the way it conducts business, and that it will not be to its credit

if it keeps wavering, afraid to act, in deference to the opinion of certain people whose opinions are not advanced until the very last moment.

The Honourable Mr. MUNGULDASS—After such a strong expression of opinion from His Excellency I am afraid there is very little chance of my suggestion being agreed to; still, I would repeat that as this Council will be sitting from day to day for the consideration of other measures, the Council will suffer no inconvenience if we delay the passing of this Bill and allow an opportunity to the owners of boilers to make their representation.

The Honourable Mr. GIBBS intimated that an alteration would be made upon the shape of the Bill similar to what had been made upon the Steam Boilers Inspection Bill—that is a re-arrangement into parts, &c.

The Honourable Mr. ROGERS desired the following section to be entered in the Bill declaratory that no Inspector appointed under its provisions should be permitted to take private work or enter into private contracts, as Clause 2nd of Section IV. of the Bill:—"Clause 2.—Such Inspectors, if Government shall see fit so to direct, shall not be engaged in any trade connected with the manufacture or sale of steam boilers or machinery worked by steam, and unless in the service of a Railway or other Company shall not practise as engineers."

The Honourable the ADVOCATE-GENERAL considered that such a section was unnecessary, because what was wanted could be made a matter of stipulation with an Inspector before his appointment.

The Honourable Mr. ROGERS agreed with the Honourable the Advocate-General, and said he only wished the section introduced to make the intention of Government more clear, in consequence of remarks which had been made in the Press and elsewhere.

His Excellency the PRESIDENT was of opinion that a Boiler Inspector would be a public servant, and as such would come under the terms of the Penal Code if he abused his trust. He mentioned that he had had an opportunity of talking upon this point with a gentleman who believed himself rather hardly used by Mr. Moylan. He pointed out to him that the new Bill would put the Inspector under the Collector, and that where there were any disputes a Commission would be called in to adjudicate. The gentleman thereupon expressed himself quite satisfied.

The Honourable Mr. GIBBS—And, moreover, that gentleman said he was very glad to hear that by this Bill the Inspector would be made the servant of the public and not the master, and that he would now have no power to shut up a whole mill if he chose.

The Honourable Mr. ROGERS said he would not press his amendment if it was to be understood that Government would make an arrangement with the Inspector which would make the section unnecessary.

The Honourable Mr. BYTHELL trusted that such an arrangement would be made by Government, for nothing could be more objectionable than for an Inspector to be allowed to enter into arrangements whereby certain boiler-owners were given more advantages than others.

The Honourable Mr. GIBBS was certain that Government would never fail to make the stipulation.

The motion was then put to the Council—that this Bill be read a third time.

Bill read a third time and passed.

The motion was agreed to, and His Excellency the President declared the Bill to be passed.

The Council then proceeded to the next order of the day, namely, the *Third Reading* of Bill No. 9 of 1873 (a Bill to amend Bombay Act No. II. of 1864, providing for the Periodical Survey of Steam Vessels, and to provide for the examination of Engineers of Steam Vessels).

The Honourable Colonel KENNEDY intimated that a communication had been received from the Government of India, in consequence of which it would be advisable to postpone the third reading of the Bill for a short time.

Colonel Kennedy advises postponement of the third reading of the Survey of Steam Vessels Bill.

The Honourable Mr. GIBBS said he had thought that the alterations which had been made in this Bill would be sufficient to justify proceeding at once with the third reading, but since he had come into the room the Secretary had showed him a letter from the Government of India, in which, while they sanction the principle of the Bill, they notice one section regarding the certificates of engineers which it would be advisable to see does not clash with the provisions of XXV. and XXVI. Vic., Cap. 63. That Act is not in Poona; therefore he thought it would hardly be wise to proceed with the third reading until the Council could see whether it did raise the difficulty the Government of India points out.

A technical objection taken to one of the sections by the Government of India, in consequence of which the third reading is postponed.

The Honourable the ADVOCATE-GENERAL agreed with the Honourable Mr. Gibbs that it would be very desirable to see the exact provisions of the English Act referred to before they proceed to legislate upon the subject further.

The Council then agreed to postpone the third reading of the Bill.

The third reading of the Bill postponed.

The Honourable Mr. GIBBS—It is now my duty to bring forward a more serious objection to the Bill in its present shape than the technical difficulty which has been started by the Government of India. His Excellency will remember that during the discussion on the second reading I, with the view of satisfying myself about the value of the certificates of the Lloyds' Association and the Liverpool Association, asked the Honourable Mr. Bythell, when he proposed his additions to the second and third sections, whether these certificates were as good as those which the Board of Trade issues. I understood the honourable member to reply affirmatively, and I then agreed to the alterations on the understanding that in the eyes of the mercantile community a cargo vessel possessed with a Lloyds' or a Liverpool Association certificate was as secure as though it possessed a Board of Trade certificate, and was considered by gentlemen who wished to ship their goods upon it, and those who wished to underwrite it, to require no further survey. Since the honourable member's alterations were agreed to, however, I have received a letter from Captain Morland, one of the Dockyard officers, and I have also had an interview with Mr. Wadia, the Master Builder, and in consequence I have seen reason to doubt the advisability of confirming those alterations. I will put before the Council the facts of one instructive case as given me by the Government surveyors—it is the latest which has occurred; but I am sorry to say that from what I hear, similar cases are not unfrequent in Bombay. I think that the case I refer to will show the Council that the certificates granted by the Lloyds' Association and the Liverpool Association are often hardly worth the paper upon which they are written. This Council must bear in mind that

Mr. Gibbs speaks against the amendment which was made upon the Bill at the second reading, in consequence of which it was declared that vessels provided with certificates from the Lloyds' Association of Underwriters and the Liverpool Association of Underwriters should be exempted from survey in Bombay Harbour, as well as those provided with Board of Trade certificates, and moves an amendment accordingly.

one of the objects of the Bill we have now before us is not only to preserve the lives of passengers and the safety of property, but also the lives of the crews. In the early part of this year the steamer "John Adamson" arrived in Bombay from Liverpool. She was a new steamer, and this was her first voyage. After discharging her cargo she came under the operation of the present Act and was surveyed. She received a certificate which was of force for six months. She was laden here and proceeded upon her return voyage to England. When she arrived at Aden a common cargo boat or small dhow ran into her, and the result was that this newly-built vessel, Classed A 1 for twenty-one years, received such a blow from this small vessel, that an important plate in her fore part was cracked. She was patched at Aden and went on to England, where she was put into dock. She then received a certificate from the Liverpool Association of Underwriters, upon which she proceeded to sea again with a cargo which was insured. In England the small patch which had been put on at Aden was taken off and a larger one put on. When she arrived in Bombay a dispute arose because the consignees alleged that a large portion of the cargo was damaged. A survey was called for, and she was surveyed as she lay in the harbour. The surveyors found it would be necessary to take her into the dry dock. The surveyors were Mr. Jamsetjee Wadia, Mr. John Dixon, Mr. Thomas Lidbetter, and Mr. Mathews. I will read extracts to the Council from their certificate, and these will show the condition in which the "John Adamson" was found:—

* * * "On examining the bow of the vessel, on the outside, the general appearance of the plating rivets, frame rivets, keel rivets, and stem, also several seams and butts, bore evident symptoms of having leaked: this extended only from the collision bulkhead to the stem. We found a large number of rivets to be slack and leaking up to the level of the water remaining in the collision compartment. After further consideration we deemed it advisable that the collision compartment and the forewater ballast tank should be filled with water in order to show distinctly on the outer plating where the defects and leakage existed." * * * "This was done, and we again proceeded on survey, and on both sides of the bow we found water issuing from the rivets, butts, and landings of the plates, comprised between the collision bulkhead and the stem, and more particularly from the fifth plate above the garboard plate: this leaked almost throughout its entire length, and is single rivetted. We found the single rivetted plating to be generally in defective condition within the above-mentioned limits. We found some of the keel rivets slack and leaking." * * * "We next proceeded to examine the inside of the vessel, forward, and applied the hose of the steam fire-engine to the patch on the damaged plate on the starboard side of the forehold and alluded to in our former survey report. We found the water came into the vessel with a rush, streaming in all round the patch and running down on the water ballast tank flooring. The landings of several plates in the collision bulkhead were found to be leaking, as also a number of rivets of the shoe plates to the stringers on both sides, passing through the collision bulkhead from the fore hold and above the fore ballast tank. The water rushed through these leakages in force into the fore hold; in fact it appears to us that the vessel is badly strained in every way, from the collision bulkhead forward."

Now if this Bill as it is now amended had been in force when the "John Adamson" arrived we would not have been able to examine her.

The Honourable Mr. BYTHELL—If a vessel is found to be unseaworthy on her arrival here she is not to be exempted from survey. Therefore I say this Bill would apply to such a case as that of the "John Adamson."

The Honourable Mr. GIBBS—The Bill might, if the vessel bore signs of her condition; but the "John Adamson" had met with only ordinary weather on her voyage out, and as she was provided with a certificate from the Liverpool Association nothing could have discovered her state but actual survey. The fact is that a number of vessels are built now-a-days for about £16 a ton which are not fitted to encounter rough weather, and which must be sharply looked after. Here is a vessel coming here with a Liverpool Association certificate granted after repairs which were of the very imperfect nature mentioned in the certificate; and now that the honourable members are aware of her condition it is a question for this Council whether they are prepared to exempt from survey all vessels provided with similar certificates. I may mention regarding the "John Adamson" that I believe that an action is now before the Bombay High Court, in which the owners are sued for about £27,000 for damaged cargo. I understand that although Board of Trade certificates are not absolutely necessary for vessels unless they carry passengers, yet as a matter of fact many cargo vessels are in the habit of carrying Board of Trade certificates; and as far as I can learn there is no reason why every vessel arriving here should not be possessed of a Board of Trade certificate. I am informed that from the competition of insurance companies at home, inspections are sometimes made in a perfunctory and unsatisfactory manner, and I think that no certificates from private or semi-private insurance companies ought to be accepted in a legislative enactment as sufficient to exempt a vessel from inspection when it arrives in Bombay. I met a friend the other night, who is connected with one of the largest mercantile firms of Bombay, and on my happening to mention that vessels carrying certificates from the Lloyds' Association and the Liverpool Association were to be treated on the same footing as if they were provided with Board of Trade certificates, he remarked that he did not remember any vessel which his firm had to do with not having a Board of Trade certificate. I think, on the whole, that we ought to be very careful before we endorse the Honourable Mr. Bythell's amendments. There is nothing in the Bengal Acts granting the exemptions which he lays claim to, and I would draw the Council's attention to a resolution of the Bengal Government published in the *Bombay Gazette* of Tuesday, the 23rd September, in which the Lieutenant-Governor points out some important facts relating to steamers leaving Calcutta. One vessel which had been surveyed by one of the insurance companies in Calcutta had proceeded on her voyage but a little way, when it was found she could go no further, and it was only with the utmost difficulty that she got back again to Calcutta. Another vessel which His Honour mentions is one which put back to Calcutta and was found on a more careful survey to be rotten. A third vessel went to sea with a certificate of this description, but she has never been heard of since, though she had many emigrants on board. I think this is a most serious matter, and one regarding which we should be most careful. Notwithstanding, therefore, what the Honourable Mr. Bythell, as representing the Chamber of Commerce, has said in pressing his amendments, I beg to move that this Bill be re-amended, and that the words "or by Lloyds' Association of Underwriters, or by the Liverpool Association of Underwriters" be struck out of Sections 1 and 2 of the Bill as printed.

The Honourable MR. BYTHELL—My opinion that many steamers do come to Bombay unprovided with Board of Trade certificates is founded upon information given to me by the P. and O. Company, Captain Dixon, who is Lloyds' Surveyor, and other gentlemen possessing an equal amount of experience. As regards the certificates which are granted by the two Associations of Underwriters I have mentioned, the Honourable Mr. Gibbs seems to be mistaken in imagining that they are granted by rival insurance companies.

The Honourable Mr. GIBBS—I never for one moment imagined that Lloyds' and the Liverpool Association of Underwriters were rivals.

The Honourable MR. BYTHELL—I certainly understood the honourable member to say that every steamer which went to Lloyds' and could not get a certificate would go to the Liverpool Association, the Bureau Veritas, or some other Association, and would be sure to get a certificate at last, and that therefore such certificates were not of much value. Now the subscribers to Lloyds' Association include almost every person interested in shipping or insuring cargo in the United Kingdom, and vessels classed in Lloyds' are examined in the most rigorous possible manner under rules laid down in the book which that Association publishes annually. No question of rates of premium, or of interested underwriters, or interested insurance companies, can possibly be or is ever taken into account by the Association when making these examinations. In the same way with the Liverpool Association. The underwriters have clubbed together and formed that Association to protect their own interests as a body. They have rules providing that every vessel must be thoroughly examined before being furnished with one of their certificates. It cannot in fact be said with truth that any question of competition in insurance has anything to do with the granting of certificates by either the Lloyds' or the Liverpool Association. As regards the statement to the effect that merchants are not guided by the certificates granted by these Associations in shipping their cargoes, the Honourable Mr. Gibbs is entirely mistaken.

Mr. Bythell speaks as to the value of certificates granted by the Lloyds' Association and the Liverpool Association.

The Honourable Mr. GIBBS—I merely said that one merchant in Bombay told me he was not aware that the firm he was connected with had had anything to do with vessels which were not provided with a Board of Trade certificate.

The Honourable Mr. BYTHELL—I understood the Honourable Mr. Gibbs to say that he had been informed that merchants and underwriters were not mainly guided by these certificates of Lloyds' Association and the Liverpool Association. I can, however, say that almost all shippers look at Lloyds' register or the Liverpool register for the name of a vessel they are thinking of shipping goods upon, and if they find there her certificate is still in force, and that she is high-classed, they ship their goods without further references. Some of the underwriters in Bombay have, however, a surveyor who sees that the vessel has sustained no damage on her voyage, and grant a certificate to the effect that she is still seaworthy. Lloyds' Association have an agent in Bombay (Captain Dixon) who visits vessels as they arrive here and grants certificates to them if they are all right, and his certificates are used by many insurers. With regard to the one special case mentioned, the "John Adamson," I should say that the fact of a forward plate being cracked by a large dhow running into her bows is not by any means a proof that the plate was either of bad metal or was too thin. I did not gather either from anything the honourable member said that the plates of the steamer as a whole were either of bad quality or too thin. But even though they were, cases like the "John Adamson" would be met under this Bill as it now stands, because we have provided that if vessels on arriving here appear to be unseaworthy they shall be examined. When a vessel is unseaworthy on arrival here the fact soon becomes known among all persons who are connected with the shipping trade, and the Government surveyors would know also, so that under the Bill as it now stands I repeat that the "John Adamson" would certainly have been surveyed and repaired under the Government surveyors' superintendence. It was well known that

she was in a leaky state. If the honourable member would take the trouble to look at the instructions which are laid down in the book of rules published by the Lloyds' Association or the Liverpool Association, he would see that the fact of one vessel coming out here in a defective state, although provided with a certificate from either of these associations, is no reason for concluding that all the certificates of these Associations are less trustworthy than those which are granted by the Board of Trade.

His Excellency the PRESIDENT—I think it must be remembered that we have done all that we were asked to do by the Board of Trade, and we have done even more, because we also extended the exemption of vessels from examination to vessels which may be provided with certificates granted by the British Indian or British Colonial Governments. We also did what we were asked to do to the Bill by the North of England Association, which only objected to surveys being enforced upon vessels arriving in Bombay with a Board of Trade certificate. At the second reading of the Bill I pointed these facts out when the Honourable Mr. Bythell's amendments were under consideration, because I was afraid that in an unguarded moment we would be putting the certificates of the Liverpool Association and Lloyds' upon an equal footing with those of the Board of Trade. The Board of Trade, I was aware, had no interest in the matter, nor had the British Indian or Colonial Governments, beyond the preservation of life, and I very seriously doubted the wisdom of extending the privilege of exemption to vessels provided simply with certificates from the two other associations.

The Honourable Mr. GIBBS—The Honourable Mr. Bythell has referred frequently to the value of the certificates granted by the Lloyds' Association, but my Honourable friend Mr. Narayan has drawn my attention to a telegram the existence of which probably the Honourable Mr. Bythell was not aware of when he addressed the Council. The telegram is from the Lloyds' Association and is addressed to the Bombay Dockyard authorities, and runs thus—" Steamers are leaving Bombay for Suez dangerously overloaded and *otherwise unfit*. Cannot steps be taken to prevent this risk of life and property ? Please telegraph information. Reply paid." Thus it will be seen that by leaving out the Honourable Mr. Bythell's amendments we would be doing exactly what the Lloyds' Association wish us to do.

The Honourable Mr. BYTHELL—That telegram was directed more especially against the overloading of ships. Really there is more danger to ships from overloading in Bombay harbour than from anything else. Steamers clear out drawing very much more water than they ought to do, and I would have no objection to seeing a clause inserted in this Bill providing against overloading.

The Honourable Colonel KENNEDY—Since my Honourable friend Mr. Gibbs has read that telegram from the Lloyds' Association, in which they themselves seem to be calling for help, I am inclined to think it would be unadvisable to adhere to the words the insertion of which the Honourable Mr. Bythell obtained in the Bill at the second reading.

The Honourable Mr. NARAYAN—Besides, if we adopt them, we shall be making an invidious distinction between insurance associations. The Bombay Association might, for instance, lay claim to the exemption here laid down.

The Honourable Mr. GIBBS—That very point was brought to my notice this morning in a communication which I received from a gentleman who is interested in this Bill. He says that if we exempt the certificates of the Lloyds' and Liverpool Associations other associations will cry out and say it is unjust.

The Honourable Mr. BYTHELL enquired what other associations would cry out.

The Honourable Mr. GIBBS replied—The Bureau Veritas, for instance, and the Bombay Association.

The Honourable Mr. BYTHELL—The Bombay Association of Underwriters have no fixed rule of survey and do not profess to grant certificates and publish registers of shipping. The only two associations in England are, I believe, those which I have mentioned; and as to the Bureau Veritas and other foreign associations, there is no need to legislate for them, because foreign vessels are exempt from the operations of this Bill, and British vessels classed in foreign registers I would not propose to exempt specially.

The Honourable Colonel ANDERSON—The Underwriters' Association certificates appear to me to refer only to cargo, whilst the Board of Trade certificates refer to cargo as well as to life. In justice to life, I think we are entitled to ask for the highest kind of certificate that can be got, instead of trusting to the inferior certificates of private associations. Regarding the remark I have just made about slipshod certificates the Honourable Mr. Bythell was inclined to attribute the state of the "John Adamson" solely to the effects of the collision at Aden; but that accident could not, I think, make 500 rivets which were in her so bad that they fell out when struck with a hammer, as stated in the report of Survey read by the Honourable Mr. Gibbs.

The Honourable Mr. GIBBS—We must also remember that after the collision the "John Adamson" went home and got repaired, after which she received her certificate.

The Honourable Mr. BYTHELL protested against what had been said by the Honourable Colonel Anderson. He said he (Colonel Anderson) was not justified in calling Lloyds' and the Liverpool Associations "inferior associations of underwriters."

His Excellency the PRESIDENT remarked that the associations were both speculative companies.

The Honourable Mr. BYTHELL said they were not and added:—They are composed of underwriters and insurance companies desirous of protecting themselves from risks, and of merchants who are interested in obtaining correct knowledge of the character of vessels before shipping in them. The members of the associations pay an annual subscription, and in return each get a book with the character of every ship in the associations written in. The books also contain the rules under which vessels are examined. These associations do not look after the interests of any particular insurers, but form a register that may be and is confidently trusted by all interests. The annual subscriptions and the heavy survey fees charged to the ships go towards keeping a most efficient staff of inspectors. Vessels go voluntarily to very great expense and pay heavy fees in order to have the advantage of having their character thus certified.

The Honourable the ADVOCATE-GENERAL—I believe that the surveys made by the Lloyds' Association are as careful as those which are made by the Board of Trade, and perhaps those which are made by the Liverpool Association are equally careful; but the difficulty which occurs to my mind is the expediency of making the certificates of these two private bodies binding upon this Government. They may be useful documents and to a certain extent a guarantee of safety, but supposing any other respectable associations come forward and claim exemption for their certificates, are we to exempt them? I think that it would be much

The Advocate-General doubts the expediency of making the certificates granted by private bodies binding upon the Bombay Government.

the safer and more satisfactory course to adhere to the certificates granted by the Governments mentioned in these sections and the Board of Trade, and to omit those granted by Lloyds' and the Liverpool Association.

The Honourable Mr. GIBBS—There is also another point which I would mention. I believe that when a vessel at home is built, examined for the first time, and classed, the inquiry is very careful and minute, but re-examinations are not always made with the same attention as the examination in the first instance.

The Honourable Mr. BYTHELL—The honourable member is quite mistaken in his supposition. There are certain examination rules to be followed which are laid down by the Lloyds' and Liverpool Associations, and nothing, I think, could be more stringent than these rules. The fact that the "John Adamson" may have escaped detection does not prove that all the certificates granted by these associations are worthless, because it can easily be proved that vessels with a Board of Trade certificate have often been found to be in a very unsatisfactory condition. Not very long ago a P. and O. Steamer was reported in the public prints to have sprung a serious leak in some unaccountable manner, but the honourable member would not, I presume, argue from that fact that the P. and O. Company habitually worked unseaworthy vessels.

The Honourable Mr. GIBBS—It is a curious fact that the two cases I have gone into —that of the "Neera" and the "John Adamson"—showed the necessity for re-survey in Bombay.

The Honourable Mr. BYTHELL—I may state that the firm I am connected with have shipped produce largely for some years past, that we have trusted entirely to certificate granted either by the Lloyds' Association or the Liverpool Association, and that we have not lost a single pound of produce since 1866.

His Excellency the PRESIDENT suggested that it would be better to take the vote. His own opinion was in favour of striking out the words introduced by the Honourable Mr. Bythell at the second reading.

The Honourable Mr. GIBBS then moved the omission of the words "Lloyds' Association of Underwriters or Liverpool Association of Underwriters" in Sections IV., V. and XV.

The Council divided :—

Ayes—9.	*No*—1.
The Honourable J. GIBBS.	The Honourable J. K BYTHELL.
The Honourable A. ROGERS.	
The Honourable the ADVOCATE-GENERAL.	
The Honourable MUNGULDASS NUTHOOBHOY.	
The Honourable Colonel M. K. KENNEDY.	
The Honourable Sir JAMSETJEE JEJEEBHOY.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable GUNPUTRAO TATYA SAHIB.	
The Honourable Colonel W. C. ANDERSON.	

The motion was therefore lost.

The Honourable Mr. BYTHELL objected to the scale of fees appended to the Bill, and proposed that the scale of fees levied under Act II. of 1864 be substituted. The new scale made fees a good deal higher than they were formerly, and this he considered inadvisable.

The Honourable Colonel KENNEDY mentioned that the Honourable Sir Jamsetjee Jejeebhoy had just stated his opinion to be that the fees were too low.

The Honourable Mr. NARAYAN—Under this Bill the surveyors will have a very great deal of work to do gratuitously, and I approve of this schedule as it stands in the Bill.

The Honourable Mr. BYTHELL—The honourable member's argument amounts to this, that steamers which ought not to be surveyed must pay for those which ought.

The Honourable Mr. NARAYAN observed that the intention of Government was to make this Act self-supporting.

The Honourable Mr. BYTHELL—Whatever the intention may be, it is scarcely fair to the vessels not exempted to advance such an argument.

The Honourable Mr. NARAYAN—The scale charged in Calcutta is much higher, and vessels there lie across the pier, whereas in Bombay the surveyors must incur the expense of boats.

The Honourable Colonel ANDERSON was of opinion that as the Act must be self-supporting, every vessel with a Board of Trade certificate should be called upon to pay some small sum.

The Honourable Mr. GIBBS said that he was told the other day that a captain of a steamer which arrived in Bombay had had to pay, together with port dues, a sum of Rs. 340; and he went on to Calcutta where he was charged Rs. 2,500; and to Moulmein, where he paid Rs. 1,240. This showed, at all events, that Bombay harbour charges were comparatively light.

The Honourable Mr. BYTHELL said that the honourable member's statement could hardly be accepted, because it was notorious that Calcutta and Moulmein were about the most expensive ports in the East in consequence of the extensive dredging operations which were carried on in their vicinity, the difficulty of navigation and long pilotage. In Bombay, however, literally nothing had been spent to improve the entrance to the harbour or the anchorage.

The Honourable Mr. GIBBS—With regard to Section XVII. as printed, which states that it shall be competent to the Governor in Council to exempt from the operation of this Act steam tugs, steam barges, and steam launches, I wish to bring to the notice of the Council some facts which were sent to me to-day. It appears that the steam launches which now run about the harbour are many of them about six or seven years old, and the state in which not only their hulls but their engines and boilers are at present requires that there should be some examination of them. They are as a rule badly looked after and owned by persons who work them as much as possible. It is therefore suggested by some of the officers connected with the Government survey that these vessels should be surveyed. Captain Henry, of the P. and O. Co., wishes the steam launches and barges of that Company to be exempted from this Act, and I think his wishes may be agreed to, since the P. and O. and some other large Companies see the wisdom of keeping their launches and barges in the best possible condition; but we cannot look upon these native-owned small steam craft in the same light, some of which appear to be really in a dangerous state.

The Honourable Mr. BYTHELL said that if these vessels were to be examined a reduction in the scale of fees must be made so far as they were concerned, because the survey charges would amount as a rule to one per cent. upon their total value.

His Excellency the PRESIDENT thought that the power ought to be given to Government to exempt partially or wholly from the operation of the Act steam tugs, steam barges or steam launches. If this were agreed to examinations would not be very frequent, and therefore there would be no necessity for reducing the survey fees regarding these small vessels. He moved that in line three of Section XVII. "either wholly or partially" should be inserted between "exempt" and "from"; that "any" should be inserted after "Act" in line four; and that "and" in the fifth line should be altered to "or."

The amendments were agreed to.

No alterations were made upon the schedule as printed in the Bill.

Mr. Rogers moves the first reading of the Jails Bill.

The Honourable Mr. ROGERS, in moving the first reading of Bill No. 11 of 1873—(A Bill for the Regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein), said:—Although honourable members will find the reasons for the introduction of this Bill in the Statement of Objects and Reasons, yet I may add a few words of further explanation on the subject. The jails in the city of Bombay are now exempted from the control of the Inspector General of Prisons, and one of the chief reasons for introducing this measure is to bring these jails under his charge. To effect this the Acts which bear upon the subject of jails in Bombay itself and in the Mofussil will be consolidated and one general Act passed. The present Committee of Management of the House of Correction will no longer be necessary, and the Regulation No. III. of 1827, under which that Committee was constituted, will no longer be required. Another point which has been frequently urged upon the Executive Government is, that the law, as it at present stands, does not authorize the punishment of whipping in the County Jail; in the House of Correction whipping is authorized by a special Act. With the view of enforcing proper discipline this Bill will provide for the infliction of that punishment in both these jails and also for the punishment of penal diet—a punishment which has been found to be very efficacious in other parts of India and in England. Under Act IV. of 1865 as it stands at present prisoners sentenced to imprisonment for terms not exceeding one month must be sent to a subordinate jail, if a jail of that description is nearer to the place where sentence is passed upon them than is the district jail. Subordinate jails have hitherto been nothing more than Mamlutdar's lock-ups, and no proper means could be provided in them for enforcing rigorous imprisonment. It is proposed in this Bill to shorten the period of maximum imprisonment which a prisoner can undergo in subordinate jails from one month to fourteen days. It is found at present, in consequence of the position in which magistrates are often placed in going about from place to place, that they frequently have to send prisoners to a subordinate jail when it would be advisable to send them to the district jail, and this reduction in the period of imprisonment will enable a number of prisoners to be sent to the district jail where they may be subjected to proper discipline. Other minor points will come before the Council on the consideration of the Bill in detail, and with these remarks I beg to propose the first reading of this Bill.

The Honourable the ADVOCATE-GENERAL—The leading principle of this Bill appears to be to bring under the operation of the general law the County Jail and the House of Correction in Bombay, and place them under the supervision of the Inspector General of Prisons. The House of Correction is under the management of a Committee appointed by Government according to certain ordinances, and no doubt there will be no difficulty in

dealing with that institution. But the case may be different with the County Jail. That institution has been for a very long time considered to be under the immediate supervision of the Judges of the old Supreme Court, and upon the establishment of the High Court, that supervision appears to have been transferred to the Judges of the High Court. I remember, when I was Sheriff of Bombay, continual references had to be made to the Judges regarding discipline—it being considered at that time that they had power to enforce discipline within the prison. I should like to know if there has been any communication with the Judges with regard to what was at least their traditional jurisdiction over the County Jail.

The Honourable Mr. GIBBS—This Bill has been referred to the High Court, and the Chief Justice Sir Michael Westropp has no objection to it, nor have the other Judges of the HighCourt.

His Excellency the PRESIDENT declared the motion to read the Bill a first time carried

On the motion of the Honourable Mr. Rogers the Bill was referred to a Select Committee, consisting of the Honourable Mr. Gibbs, the Honourable the Advocate-General, the Honourable Mr. Narayan Vasudevjee, and the Honourable Mover, with instructions to report on or before the 1st of December.

The Bill read a first time and referred to a Select Committee.

The Honourable Mr. ROGERS, in moving the first reading of Bill No. 12 of 1873 (A Bill to amend the law relating to Hereditary Offices) said :—This Bill, as the Council will see, has been substituted for Bill No. 2 of 1873, which has been withdrawn. The new Bill differs from the former one in that the old Bill referred only to hereditary village officers, whereas this one being worded in more general terms, may be taken to relate to district officers as well as to district village officers. It was agreed, however, the other day, that when the new Bill was introduced the question of whether it should be made applicable to district as well as village officers should be left for discussion by the full Council. Before speaking further on this point, I merely wish to say that generally this Bill is the same in principle as the one which has been withdrawn. The former Bill was fully considered by the Select Committee, and I think that everything requiring consideration has already been attended to by that Committee. At all events more information cannot be placed before the Council than has already been laid before the Select Committee. I will now say a few words upon the question whether this Bill should be applicable to district as well as village officers. The Committee of Collectors and Revenue Commissioners who have lately sat and considered this Bill, appear to be of opinion that the Bill should be framed in such a manner as to be applicable to the two kinds of hereditary officers. I myself am of a different opinion. One or two legal questions are involved, upon which I would like to get the Honourable the Advocate-General's opinion. The present Act under which all hereditary offices are settled is Act XI. of 1843, which applies to both village and district offices. I presume it is known to most of the members of Council that in the case of hereditary district officers almost throughout the Presidency a settlement has been come to, by which the services of these officers have been dispensed with on the condition that a portion of the emoluments of their offices should be kept by Government while the officers should be allowed to retain the remainder. Such settlements have been made upon an equitable basis, the value of the services hitherto rendered by these hereditary district officers having been carefully considered, and the balance to which they were entitled guaranteed to them by sunnuds from Go-

Mr. Rogers moves the first reading of the new Hereditary Offices Bill, which refers to district as well as to village hereditary offices.

vernment. The members of the late Committee, in their opinion that it would be better to make this Act applicable to both village and district officers, seem to me to be rather unmindful of the settlements which have been come to with the majority of the latter. I think that in consequence of these settlements the two classes of hereditary officers should not be mixed up in this Bill. These settlements are of the nature of a contract between Government and the hereditary district officers, and of course so far as Government is concerned they are binding. The chief part of each contract is that we shall hereafter take no services from these officers, and therefore I think that no law under which they be considered liable to perform service should be passed. There are one or two collectorates in the Presidency in which this settlement has not been come to; but when the whole of the settlements are complete it will not be necessary to make any law upon the subject, and then Act XI. of 1843 could be repealed without any difficulty. The present Bill will of course be in that case purely applicable to village officers. I believe that some of the wuttundars with whom these contracts have been made are now bringing forward the point that, whereas a hereditary office is of the nature of an entail, it was not competent for Government to enter into any contract with the present holders to the exclusion of their heirs and successors. That is one reason why the Committee of Revenue officers think that provision should be made in this Act for continuing the powers given to Government with regard to District Officers by Act XI. of 1843. With regard to the point of the necessity for laying down in this Act certain powers by which these settlements should be legalised, I beg to point out that in my opinion the present Pensions Act XXIII. of 1871 distinctly exempts from the jurisdiction of Civil Courts all questions relating to any pension or grant or land revenue made by the British or any former Government, whatever may have been the consideration for which such pension or grant, or the nature of the claim for which such pension or grant has been substituted. It appears to me, therefore, that as any question regarding these settlements is kept out of court by the Pensions Act, Government having made an equitable bargain with the hereditary district officers, we cannot now interfere with them by this Bill. I would therefore like to hear from the honourable the Advocate-General his opinion whether cases of disputes with these hereditary district officers can (bearing in mind the present law) come under the jurisdiction of the Civil Courts. If they do not, then there is no occasion for introducing any provision here relating to hereditary district officers. The Committee make an objection with regard to the use of the words "lump sum" in Section 10 of Act XXIII. of 1871. I presume however, that these words would not bring under the jurisdiction of the Civil Courts what has been exempted by a previous section of the same Act. There will certainly be one advantage in repealing Act XI. of 1843, that is, to get rid of it from the statute-book; but considering that it is only applicable now to one or two collectorates, the hereditary district officers in the whole of the rest of the Presidency having been settled with, I do not consider it to be necessary to introduce legislation for the control of officers who in the course of a short time, when the settlements are extended, will be entirely out of the control of Government. Under the arrangements which have been made by the Revenue Survey Officers we find that the services of these hereditary officers are really not necessary, and that it is better to pension them off and retain only a portion of their emoluments. With these remarks I beg to move that the bill be read a first time.

The Honourable the ADVOCATE-GENERAL:—Sir, it is rather hard to be called upon to give a legal opinion upon a case without having all the particulars of the case before me.

I would require to have before me all the matters of agreement between these district officers and the Government representatives, before I could say whether or not their complaints would come under the Pensions Act. I would certainly decline to give any positive opinion as to the validity of these settlements until I have seen them, for they may contain provisions which take them entirely out of the operation of Act XXIII. of 1871. On the first view of the matter I do not know that this Act will take from the cognizance of the Civil Court a case in which Government has made an arrangement admittedly only of tenant for life by which the claims of successors shall be settled for ever. I therefore, not having these settlements before me, and not being cognizant of the details of these settlements, must respectfully decline to give any opinion as to whether or not these settlements would come under Act XXIII. of 1871. I think that the doubt which I feel is enough to justify me in differing with the Honourable Mr. Rogers on the point as to whether hereditary district officers should be excluded from the operations of this Bill. I rather think that, instead of trusting to the chapter of accidents and leaving the son of one of these wuttundars to raise an action in a Civil Court, the better course to pursue would be to put the matter beyond doubt by at once making arrangements to meet the case in this Bill. I also see a great deal of advantage in getting rid of Act XI. of 1843, and including all hereditary officers, whether of districts or of villages, in one Act, so that the officers who have to administer the law may know where to find it instead of being bandied about from one Act to another. I am therefore inclined to agree with the Committee of Revenue Officers who have reported upon this Bill, that it would be desirable to include hereditary district officers in the Bill which is now before the Council. I do not know whether any universal system of commutation has been established, but it must be remembered that a number of decisions have shown that these wuttundars are only life tenants.

The Honourable Mr. ROGERS—Is it necessary to legalise these settlements in this Act?

The Honourable the ADVOCATE-GENERAL—If they require to be legalised I think it is desirable to legalise them then—that is all I can say.

His Excellency the PRESIDENT—The honourable member means that there should be no question in the Act the validity of which is doubtful?

The Honourable the ADVOCATE-GENERAL having answered in the affirmative;

The Honourable Mr. ROGERS enquired what was the advantage of making this Act apply to hereditary village officers when their services would soon be done away with altogether?

The Honourable the ADVOCATE-GENERAL—I think it is better to put the question beyond all doubt so far as this Act is concerned.

His Excellency the PRESIDENT—Admitting in the broadest sense that the Civil Courts are barred from the consideration of this matter, still I suppose it is to be implied that the Government having for its own convenience put an interdict upon civil suits, will be bound to treat cases according to the ordinary rules of law. The question comes to this, whether you are to allow a man in possession to make away with the rights of the heir in succession. A wuttundar, if I understand the matter rightly, is in possession of an entailed estate and nothing but an entailed estate. Negotiations have taken place—which may be perfectly right and proper in the condition of the country; but it seems to me that if the next heir is a minor these negotiations must have been made without his consent, and therefore there may be a difficulty about the legality of the arrangements.

We cannot get over the question that the heir-at-law has not been consulted. That is not a legal question, but one of right.

The Honourable the ADVOCATE-GENERAL—Under Act XXXI. of 1854 the entail may be cut off by any person who is merely a landholder under the general territorial law of the country.

The Honourable Mr. GIBBS—I was trustee on an estate the other day in which the entail was cut off under that Act. Upon the general question whether district officers should be included in this Act, I must say that my opinion does not coincide with that of the Honourable Mr. Rogers. I think there are many reasons for which it would be advisable to make all that description of officers come within one enactment. With regard to whether the Pensions Act applies or not, I think that the Honourable the Advocate-General has exercised that discretion which he possesses in declining to give an opinion until he is placed in full possession of all the facts. Although the Honourable Mr. Rogers is of opinion that that Act will be sufficient to prevent any difficulties arising, two Revenue Officers have arrived at a different conclusion, and therefore this Council will be justified in assuming that the decision in a court of law would be at all events doubtful. Under these circumstances, and to avoid litigation, I think it would be as well to make the Bill before us as complete as possible. I shall support the proposition that the Bill should be made to apply to district hereditary officers as well as hereditary village officers.

The Bill read a first time.

His Excellency the PRESIDENT put the motion, that this Bill be read a first time.

The motion was agreed to.

The Honourable the ADVOCATE-GENERAL—I wish to call the attention of the honourable member in charge of the Bill to two points to which my attention has been drawn with the view that he may consider how far they are worth consideration. The first is as to the definition of "hereditary office." It has been suggested that the definition which is given in this Bill goes further than that which is given in Act XI. of 1843, and that it may be construed to include in the operation of this Act all the inferior kind of officers, such as carpenters, barbers, and so forth, whose offices were practically abolished by Act XI of 1843. The chief reason why this doubt has been raised is because of the words "or village administration" which occur in the fifteenth line of the third section. These words do not occur at all in Act XI. of 1843, and if we agree to adopt them here we may be reviving the rights of all the old inferior officers of a village.

The Honourable Mr. GIBBS—There is no doubt that this Act was never intended to apply to these people.

The Honourable the ADVOCATE-GENERAL—The objection was made to me by a gentleman in the Civil Service who is a Collector of a District, and therefore I think it only right that the question should be distinctly brought forward. The other point I have to allude to is with reference to Part VII. of the Bill. As far as I can ascertain, there is a considerable difference of opinion, with reference to that part, between the officers of the northern part of the Presidency and those of the south. In the northern part, the general opinion is very strongly against having certain periods of service, and a gentleman connected with its revenue administration has favoured me with his views against the system of rotation, a system which he thinks it would be exceedingly

The Advocate-General disapproves of the definition of "Hereditary offices" as too wide, and also doubts the expediency of agreeing to that part of the Bill which concerns the system of service by rotation.

undesirable to perpetuate. It seems to me that it may even be necessary to draw a distinction between the northern and southern parts of the Presidency, the latter being the only part which looks upon the rotation system of service with favour.

The Honourable Mr. ROGERS—These two points, especially the latter one, have had most anxious consideration, and I shall be prepared to enter more fully into them when we come to the parts of the Bill comprising them.

The Bill considered in detail. The Council then proceeded to consider the Bill in detail.

Consideration of the 1st and 2nd sections was postponed.

The words "held, acquired, or" were inserted after "property," in line 4 of Section 3.

The Honourable the ADVOCATE-GENERAL—In the definition of hereditary office, the words occur which I have just objected to. I would suggest that the words used in the Act of 1843 should be reverted to.

The Honourable Mr. NARAYAN objected to the expression "hereditary office" including an office held hereditarily, even where the right to demand the service originally appertaining to it has ceased. If a man has ceased to perform service why should the Act apply to him?

The Honourable Mr. GIBBS said it was necessary to provide against the whole question being re-opend by an adverse decision in a court of law. In his opinion, moreover, a man might still be a hereditary officer although his services had not been called upon for some time.

The Honourable Mr. MUNGULDASS asked whether a wuttun assigned sixty years ago could be taken away under the Collector's certificate?

The Honourable Mr. GIBBS was of opinion that the section before the Council did not contain any such power, it merely declaring a person's title to be called a hereditary officer. This title was in many cases purely honorary, many persons never having done anything at all in the way of services.

His Excellency the PRESIDENT—Will these hereditary officers be wuttundars?

The Honourable Mr. GIBBS answered in the affirmative.

His Excellency the PRESIDENT—Yet the Bill, in Section IV., goes on to say that no wuttundar shall sell, mortgage, or otherwise alienate or assign any wuttun or part thereof to any person not a wuttundar of the same wuttun estate, without the sanction of Government.

The Honourable Mr. GIBBS—The hereditary officers whom I referred to will be wuttundars in one sense, though not in another.

The Honourable the ADVOCATE-GENERAL considered the definition to be vague and unsatisfactory.

The Council then decided to insert the words "or collection of public revenue" after "administration" in line 12; to strike out "of the land" from lines 12 and 13; to substitute "with" for "of" in line 14; to strike out "or village" from line 15; to strike out "the right to demand" from line 17; to substitute "have" for "has" in line 18; and in the same line to insert "to be demanded" after "ceased."

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Poona, 25th September 1873. Acting Under Secretary to Government.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Poona on Friday, the 26th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honorable Colonel W. C. ANDERSON.

The Hereditary Offices Bill considered in detail.

The Council proceeded with the consideration of the Hereditary Offices Bill in detail.

The Honourable Mr. NARAYAN VASUDEVJEE said—I beg leave to propose that the proviso from lines 22 to 25 of Section 3 of the Bill which renders the assent of Government necessary to adoption by the Wuttundars, be expunged. The Hindoo law does not recognise any distinction between a lineal descendant and a descendant by adoption, and this proviso would only tend to create a sense of insecurity in the minds of the Wuttundars, whose co-operation in the Police and Revenue administration of this Presidency the framers of this Bill desire to secure. It would inflict a hardship upon the people, because for every rupee that the Government would receive in the shape of a nuzzerana in according their assent to adoption, the Wuttundars will have to spend twenty. Suppose the case of a Koolkarni or Mhar wishing to obtain the sanction of Government to the adoption of a son. He will have to employ a Mookhtiar to prepare his petition, then to get it stamped, and it will afterwards be necessary for him to fee some of the karkoons and sheristadars, so that under the dustoorie system alluded to by the Honourable the Advocate-General yesterday, the poor Wuttundar will have to spend twenty rupees for every rupee which the Government can get him to contribute. The loss of Rs. 20 to a man of this class implies a state of permanent bondage to the village Marwarie. I had heard of a case in the Sawantwari district where a Koonbie borrowed Rs. 12. Within four years he paid the creditor Rs. 38 in several instalments, and yet the unfortunate man was sued at the end of the period for a balance of Rs. 72. Act XI. of 1843 of the Government of India does not impose any such obligation in regard to adoption upon the Wuttundars, and I trust that His Excellency will under the circumstances consent to the proviso in this Bill being expunged.

The Honourable Mr. GIBBS said that there must be some evidence that assent to an adoption has been given. Under the Peishwa's Government this was most strictly enforced.

The Honourable Mr. ROGERS—I must oppose the motion, inasmuch as it has been the custom since the rule of Native Governments here that in all cases where land has been assigned for military service the sanction of the Government should first be obtained. I see no reason why we should make any difference in the present case. As to the expenses which the Honourable Mr. Narayan referred to, I do not think they will be so great as he alleges.

The Honourable Mr. NARAYAN—If the honourable member finds the system of dustoorie so prevalent in a city like Bombay, as has already been pointed out to him by the other honourable members during the discussion on the Steam Boilers' Bill, it is not difficult to understand what it will be in the mofussil where this Bill is to be introduced.

The Honourable Mr. ROGERS—It has been a standing rule, ever since the days of the Peishwa, and it is also true that the Hindoo law requires the consent of the paramount power to any adoption. We simply say here that there is no occasion for confirmation of an adoption being proved excepting in cases where the adoption carries with it alienated wuttun land. I am quite certain that the honourable member on my right (Tatya Sahib) requires the same thing in his raj.

The Honourable Mr. NARAYAN—Under the management of the Honourable Tatya Sahib the honourable member must be aware that such cases would be dealt with very summarily.

The Honourable Mr. GIBBS—Of course natives in their private relations may adopt as they choose, but in adoptions which in any way affect Government they must have Government's sanction. In the case before us, Wuttundar adoptions certainly concern Government. If the honourable member were to ask any old pensioned moonsiffs and dufturdars, they would tell him that the consent of the Sircar is always necessary in the case of alienated land. I think this principle has been already laid down by the Privy Council.

The Honourable Mr. NARAYAN submitted that there was nothing whatever like this proviso in the present Act.

The Honourable Mr. GIBBS said that it was not necessary.

The Honourable Mr. NARAYAN—Then why is it necessary here? I submit that such a restriction as this implies absolute ruin to many men.

The Honourable Colonel ANDERSON—If we do not preserve this section as it is, there will be nothing but endless disputes.

The Honourable Mr. GIBBS—It seems to me that the Honourable Mr. Narayan's argument amounts to this, that Mhars and such like people are very improvident, and therefore the law must be altered in their favour; but that is a policy which cannot for a moment be agreed to. I will venture to say that there has never been a case known from the Peishwa's to the present time where the sanction of Government was not required to be obtained before an adoption in a service wuttun would be held good.

The Honourable Mr. NARAYAN said that he never knew of any case where the assent of Government regarding Mhars and Koolkurnies was considered necessary.

The Honourable Mr. GIBBS—The natives are bound by the Hindoo law, and I would ask the Honourable Mr. Narayan whether according to that the sanction of the paramount power is not necessary to an adoption.

The Honourable Mr. NARAYAN—It is only necessary in the case of Inamdars, and even then I have heard the point contested.

The Honourable Mr. GIBBS—Is it not the case that by Hindoo law the sanction of the paramount power must be necessary to every adoption, but that Government have, in fact, said that it will not interfere in adoptions by which the interests of the paramount power are not affected, while in all cases of alienated lands Government must distinctly maintain the old law?

His Excellency the PRESIDENT—It seems to me to be a matter of policy more than of Hindoo law, and we ought to decide whether it would be advisable not to allow these people to adopt without first obtaining consent.

The Honourable Mr. MUNGULDASS concurred with the views which had been expressed by the Honourable Mr. Narayan.

The Honourable Colonel KENNEDY asked what was the object of getting the assent of Government to adoptions by these small people?

The Honourable Mr. GIBBS—In the first place, it stops litigation, and if we do not agree to this section it will be found that we shall always be having adoptions set up. Under late decisions of the Courts it has been held that a widow may adopt unless it can be distinctly proved that the husband distinctly said, "You shall not adopt." The result is that false adoptions are being set up all over the country, and this is the most common form of *adhávat* between relatives. We must assist to stop that as much as we can. It is really in mercy to these people themselves that we provide for the assent of Government. My experience of something like a quarter of a century leads me to the conclusion that it is a merciful thing to give them as few opportunities of going to law as possible.

The Honourable Mr. NARAYAN—My own idea is that the people themselves would rather forego the protection which Government are thrusting upon them.

The Honourable the ADVOCATE-GENERAL—Would it please the honourable members if the section were to be so altered that no adoption shall be valid unless reported within one month of its taking place to the Collector?

The Honourable Mr. MUNGULDASS—Inasmuch as that amendment will not give a Collector power to say to a man, "You shall not adopt," I think it is an advantage, and I prefer it to the section as it stands.

The Honourable Mr. ROGERS—I beg to appeal to my honourable friend on my right (Tatya Sahib). He has actual experience of what system prevails in the districts, and I understand him to say that in his raj an adoption would not be valid without his consent.

The Honourable Mr. NARAYAN—Before this discussion commenced, I asked the opinion of the Honourable Tatya Sahib upon this matter, and he distinctly told me that I ought to press my amendment upon the notice of the Council.

The Honourable Mr. GIBBS—Inasmuch as up to the present date not a single adoption has been made in any wuttun without the consent of the Collector, I think that we can easily make the section applicable to the future.

The Honourable Mr. NARAYAN—I am sorry to have to differ from the honourable member. In the Concan I am certain that adoptions have taken place in which the consent of Government never was recorded.

The Honourable Mr. ROGERS—Then they would never be recognised if the case came before the Collector and it was proved that the sanction of Government had not been obtained.

The Honourable Mr. NARAYAN—That would be a great hardship which the Council would inflict by this secion.

His Excellency the PRESIDENT—I think it would be better to take the vote upon the Honourable Mr. Narayan's amendment that the proviso be struck out. If that be lost then we may limit the operation of the section to persons of the degree of Patells or Koolkurnies. These native gentlemen, speaking on behalf of the native community, say we are oppressing them, and some alteration of the section will be desirable.

The Honourable Mr. GIBBS—I question whether they do speak on behalf of the natives of the Mofussil. They have not had so much experience of the general administration as several honourable members here, who have spent their lives in the districts.

The Honourable Mr. NARAYAN—I at all events have had some experience in the Concan.

The Honourable Mr. MUNGULDASS—With all due deference to the Honourable Mr. Gibbs, I beg to state that a European might be half a century in the country and yet may not get at the true state of affairs of the natives. There are certain things which natives will not reveal to an European official, for they would rather prefer to suffer inconvenience or even injustice than to say anything which they think would not be relished by him in order that they may not lose his good opinion of them.

The Honourable Mr. GIBBS—I have a much higher opinion of natives than the Honourable Mr. Munguldass has. I know that they will tell other things than what simply pleases the Sahib. They will speak confidently and plainly to any European who goes among them freely, treats them kindly, and does not try to frighten them. I will undertake to get any native to show me, in half an hour, "the inside of his stomach," as the native saying is.

The Honourable Mr. MUNGULDASS—Then the Honourable Mr. Gibbs may be an exception to the rule.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—3.	*Noes*—8.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable A. ROGERS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable J. GIBBS.
	The Honourable the ADVOCATE-GENERAL.
	The Honourable COLONEL M. K. KENNEDY.
	The Honourable J. K. BYTHELL.
	The Honourable GUNPUTRAO TATYA SAHIB.
	The Honourable COLONEL W. C. ANDERSON.

The amendment was therefore lost.

The Honourable the ADVOCATE-GENERAL then suggested that the proviso should read as follows:—"Provided that no adoption by any wuttundar of the degree of a Patell or Koolkurnie or of higher degree shall be valid unless the same has received the assent of Government."

The amendment was agreed to.

With reference to Section IV., His Excellency the PRESIDENT enquired whether by this a Wuttundar might sell his wuttun to the exclusion of his son.

The Honourable Mr. GIBBS—There is no occasion to provide for such a case as that. We merely wish to prevent him from selling his wuttun to an outsider. The son would have his rights protected under the ordinary law.

Regarding Section V., the Honourable Mr. GIBBS remarked that this was to prevent a man who was carrying on the duties of the wuttun from alienating any portion of the salary attached to his services.

The Honourable Mr. GIBBS mentioned that the High Court of Bombay had some time ago issued a circular to the Courts, bringing to their notice that the pay of an officiating Wuttandar was not to be alienated. He therefore begged that Section VI. should be amended as follows:—That for the words "registered under Section 19 of Regulation XVI. of 1827," occurring in lines 2, 3, and 4, the words "recorded as such in the village revenue accounts" should be substituted; that for the words "it shall be lawful for the Collector," occurring in lines 8 and 9, the words "without the consent of the Collector or transfer of ownership in the revenue accounts, the Collector may" should be substituted; and that "to," in line 10, should be struck out.

His Excellency the PRESIDENT remarked that according to this section a man may be ousted from possession, no matter how long he has been in it.

The Honourable Mr. GIBBS said that that was what was intended.

The Honourable Mr. MUNGULDASS thought that it would not be good policy to resume after possession had been held for twenty years.

The Honourable Mr. GIBBS—By the words "the Collector may," the section is made permissive. I do not think that Government would resume land if a man had been long in possession. As the section stood formerly the Collector would have had to resume without having any option in the matter.

The Honourable Mr. NARAYAN was of opinion that the particular period for resumption should be mentioned.

The amendments were agreed to.

The Honourable Mr. GIBBS proposed similar alterations in Section VIII. as those which were made in Section 6. In lines 2, 3, and 4, the words "registered under Section 19 of Regulation XVI. of 1827" were struck out, and the words "recorded as such in the village revenue accounts or registered" substituted; and the words "it shall be lawful for the Collector," in lines 6 and 7 were struck out, and the words "the Collector may" substituted. The word "to" in lines 8 and 9 was also struck out.

These amendments were agreed to.

Regarding Section IX. the Honourable the ADVOCATE-GENERAL said:—After a temporary possession has ceased I do not see what necessity there is to assess the land at a rack-rent or do anything at all. The temporary possessor has no right to the land, and when temporary possession has ceased then the land reverts to the Wuttundar, who is brought under the general provisions of the Act.

The Honourable Mr. GIBBS thought the whole section might be struck out, for if it meant anything it simply meant the ordinary course of law.

The Honourable Mr. ROGERS—But supposing the land reverts to a man who is not an officiator?

The Honourable the ADVOCATE-GENERAL—Then the land will be dealt with under the ordinary provisions of the Act. I think it would be very desirable to have no *ex post facto* legislation of the description which seems to be contemplated here. When a man has got the decree of a Court in his favour it would be a very curious procedure for Government to say—"You have got your decree, but it shall not be worth the paper it is written upon." My belief is that it is intended by this section to reduce decrees of Courts of law to a nullity, and I should vote most distinctly against any provision of this sort.

The Honourable Mr. GIBBS—I think this is what is intended by this section. We understand that one of the principles of the wuttun system is that a portion of the wuttun must be set aside for the officiator. If the Government considers that that portion is insufficient, it has power to take a little from all the other sharers in the wuttun and hand the proceeds to the officiator. In the case of an assignment being made without the consent of the Collector, whoever holds the portion assigned does so upon the same terms as the other sharers in the assignment. Supposing a Court by a decree made over a wuttun or a certain portion of it to a person, this section is meant practically to say on behalf of Government—"Although you have got a decree in your favour from a court of law, you are just in the same position as any other wuttun-holder, and we shall take a share from you for the support of the officiator if necessary.

The Honourable the ADVOCATE-GENERAL—But the Court's decrees would be rendered of no value.

The Honourable Mr. GIBBS said that he did not think so.

The Honourable the ADVOCATE-GENERAL—If the honourable member means to say that a wuttun holder shall still be liable for the responsibilities attaching to his wuttun, then no legislation is required to declare that. When a man takes any land he also takes the mortgages upon it if any.

The Honourable Mr. GIBBS—The meaning of the section is certainly doubtful.

After some further discussion the consideration of the section was postponed.

The Honourable the ADVOCATE-GENERAL suggested that if an amended section were brought up, it would be advisable to have a clearer definition of "rack-rent."

The Honourable Mr. GIBBS mentioned that Section X. was in accordance with a circular issued by the High Court.

The Honourable Mr. ROGERS remarked that unless this section was here kept in the Bill, the Collector might go into Court and make an application through a pleader for the attachment to be removed, but the Court might tell him, "we do not recognise you; you must file a regular suit."

The Honourable Mr. MUNGULDASS wished, however, that the Court should only have power to remove an attachment made within a certain term of years.

The Honourable Mr. GIBBS thought that that was not necessary, as the law of limitations applied to everything the Court might do.

With reference to Section XI., His Excellency the PRESIDENT said:—It has been suggested that words should be added to this section to the effect that where separate *tuksheems* have been treated as separate wuttuns they may be combined.

The Honourable Mr. ROGERS—I object to that, because there is no good reason for the alteration.

The Honourable Colonel ANDERSON mentioned that there was likely to be confusion from the use of the word *tuksheems*. In the Southern Mahratta Country it was used in a sense distinct from the way it was used in other parts of the Deccan.

After some discussion the words "held for the performance of similar services" were inserted after "offices" in line 3; the words "united for administrative purposes" after "villages" in line 4; and as Clause 2 these words were added to the section :—"Any such combination made before the date of this Act coming into force shall have the same force as if made under this Act."

Regarding Section XII., the Honourable Mr. ROGERS said :—Upon the adoption of this section depends the question whether district officers will be included in the operations of this Act. There has been no such thing as the commutation of the wuttun of a village officer, and as to district officers we wish, under our new system of administration, to dispense with their services altogether.

The Honourable the ADVOCATE-GENERAL suggested that the words "in consideration of," in line 5, should be struck out together with lines 6 and 7, and the word "profits" in the eight line. This would give the Collector a wider sphere of operations as to conditions.

These amendments were agreed to.

The word "upon" was inserted after the word "service" in line 5.

His Excellency the PRESIDENT observed that if it was the opinion of the Council that Section XIII. must apply to district officers, the vote of the Council upon the question had better be taken.

The Honourable Mr. ROGERS—I have already stated my arguments against the policy of including hereditary officers in the operations of this Bill. I may mention that this morning I had some conversation with an experienced Revenue officer, during which I asked him what would be the effect of so including these officers, and he said that the only effect would be that it would make doubtful the settlements which had been already entered into. It would make the hereditary district officers think that Government had some sinister object in view, and, despite arrangements already made, would still demand services from them. I would now revert to Section XII. and move its deletion.

The Honourable Colonel ANDERSON suggested that before the votes were taken, the Council should obtain from the Revenue Department the agreements which had been entered into with district hereditary officers. He thought that the report which had been made by Mr. Gordon, the Special Settlement Officer in Dharwar, showed that there was a stipulation that although they were excluded from actual service still they had a right to sign jummabundee returns.

The Honourable Mr. MUNGULDASS was not in favour of the Bill applying to hereditary district officers, because if they were excluded they would not be tied up to accepting such conditions as the Collector might choose to make under Section XII.

The Honourable Mr. GIBBS—This is an exhibition of the usual want of confidence in Government which prevails in my honourable friend's mind. We have already made arrangements with ten Collectorates out of twelve, by mutual agreements between the parties.

The Honourable the ADVOCATE-GENERAL—I find that the Revenue Commissioners and five of the most experienced Collectors say that making the Bill apply to district as well as to village hereditary officers is desirable, and I feel bound to follow their opinion.

The Honourable Mr. NARAYAN—I submit that the proviso which is added to the section defining the meaning of the word "wuttundar" would act prejudicially to the interest of these hereditary officers. But for that proviso I should have been inclined to vote against the Honourable Mr. Rogers' motion.

The Honourable Mr. GIBBS was of opinion that this proviso was harmless, because the Collector must decide according to the Hindoo law.

His Excellency the PRESIDENT—As a matter of fact, in all the settlements which have been carried out, there is not a single instance of a man being objected to for the want of some formality about his adoption. Government proposes to deal with the outstanding districts in precisely the same sort of way, and why should it be supposed that we are now going to create all sorts of difficulties about the formulas of adoption?

The Honourable Mr. NARAYAN remarked that by this Bill the Settlement officers would be armed with powers which they never before possessed.

His Excellency the PRESIDENT said that the honourable member must be perfectly aware that any actions of a Collector would, if objected to, come before Government.

The Honourable Mr. ROGERS—Before the vote is taken, I would ask whether the settlements which have been already made will not be protected by the Pensions Act.

The Honourable the ADVOCATE-GENERAL said that he could not answer the question, not having seen the settlements.

The Council divided on the Honourable Mr. ROGERS' motion, that Section XII. be omitted from the Bill:—

Ayes—5.	*Noes*—6.
The Honourable A. ROGERS.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable J. GIBBS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable the ADVOCATE-GENERAL.
The Honourable NARAYAN VUSUDEVJEE.	The Honourable Colonel M. K. KENNEDY.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	The Honourable J. K. BYTHELL.
	The Honourable Colonel W. C. ANDERSON.

The motion was therefore lost.

The Honourable Mr. ROGERS could only hope that serious complications would not arise in consequence of this vote.

In Clause 3 of Section XIII. as printed, the first two lines were altered to read thus—"Every settlement made or confirmed under this section shall be binding," &c. In line 15 of the section "records" was substituted for "books."

Section XIV. was amended as follows:—

In line 7 the words "it shall be lawful for" were struck out; in line 8 "may" was inserted after "Collector," and "to," occurring before "assess," was struck out; lines 10 and 11 and the word "upon," in line 9, were struck out, and these words substituted—"Provided that in assessing such payments, no larger amount shall be paid than would be payable under the scale in force for the time being in the case of Government villages."

Regarding Section XV., the Honourable Mr. ROGERS said:—This section is of considerable importance, having been framed with the object of settling disputes which are constantly arising with regard to the emoluments of Mhars, whose case forms the subject of the illustration in Section III. As the section stood at first, it was one-sided, giving the Collector power with the assistance of the Punchayet to settle what those people were to be paid for their services, while at the same time it did not lay down what these services were to be.

The Honourable Mr. MUNGULDASS considered that the section should be confined to the Mhars only.

The Honourable Mr. NARAYAN—It would be better to specify the time within which a Collector may nominate members to a Punchayet than to leave it open, as in this section, by the vague expression "a reasonable time." It would also be better to state within what time the Collector shall interfere on the failure of the Punchayet to come to a decision.

The Honourable the ADVOCATE-GENERAL—I do not see any clause here by which the powers of a Collector may be delegated to his assistants.

The Council held that under existing Regulations the Collector could delegate to his assistants such powers as were necessary.

The Honourable Colonel ANDERSON—With reference to the remarks of the Honourable Mr. Narayan, I think that twenty-four hours should be sufficient time to allow the Punchayet to come to a decision, because the longer time is given to a Punchayet to make up its mind the longer time it will take.

The Honourable Mr. NARAYAN—Twenty-four hours would be clearly insufficient, because this Punchayet will very often have to take evidence.

After some discussion, "seven days" was substituted for the words "a reasonable time to be specified by the Collector," in lines 17, 18 and 19; on the suggestion of His Excellency the President the words "three days from the appointment of the Sir Punch" were substituted for the words "a reasonable time to be fixed by the Collector," occurring in lines 23 and 24; and in lines 28 and 29 the words "named in it" were struck out, and the words "whose duties or liabilities have been submitted to such decision" substituted.

His Excellency the PRESIDENT observed that Mr. Erskine was of opinion that Section XVI. would give rise to a great deal of trouble, as settlements which had been made hitherto had been made upon an average of the past five years.

The Honourable Mr. NARAYAN remarked that ten years was a fair average and should not be reduced.

The Honourable Mr. ROGERS—In some cases settlements have been made upon a five years' average, but ten years has been the more general period.

A number of amendments were suggested until the section read thus—"Whenever, on failure of the Punchayet to come to a decision, the Collector, acting under the preceding section, passes a decision, and it appears that the profits of the wuttun or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to fix the amount payable either in kind or money on an average of the past ten years immediately preceding the date of this Act coming into force."

The Council, however, could not agree to the section as amended, and it was agreed to postpone consideration of it.

In line 1 of Section XVII. "such" was struck out, and the words "of the nature" substituted for "as is."

Referring to Section XVIII., the Honourable the ADVOCATE-GENERAL considered that settlements should be made for one period once and for all. He thought the latter part of Section XVII. might advantageously be omitted.

It was agreed to insert after "settlements," in line 1, the words "of the nature mentioned in Sections XIV., XV. and XVI. of this Act"; to insert "such" before "periods" in line 3, and insert after the same word the following words :—"as the Governor in Council may from time to time direct." The remainder of the section was struck out provisionally.

Section XIX. was also struck out provisionally.

Regarding Section XX., the Honourable the ADVOCATE-GENERAL wished to know upon what grounds Government might resume a wuttun.

The Honourable Colonel ANDERSON said a failure in payment might be one reason. The concessions which were now being made by Government to wuttundars were very much greater than those which were granted in the Peishwa's time. An old book, dated 1665, which he came across a short time ago, gave a description of North Canara, and according to it, if a Coolkurnie did not fulfil what was expected of him he was thrown into jail, while if he had any property it was confiscated. After a time the man was burned with a hot iron and then allowed to resume his status.

The Honourable Mr. NARAYAN—That is no criterion to advance. We are now under British rule, and it would be absurd to use that as an argument for Government confiscating or resuming wuttuns, because formerly when a Rajah wanted five or ten lakhs of rupees he simply sent his sowars into a village or town and demanded the money.

The Honourable Mr. MUNGULDASS—Or the proceedings of certain Marwaree merchants in the up-country might as well be adopted. They send out their agent to Bombay to manage for a few years the affairs of their firms. When they recall him they believe that he has made a good deal of money on his own account. Accordingly when he returns they, in order to make him disgorge his gain, lock him up and ill-treat him. After he has been thus deprived of the money they restore him to his appointment.

The Honourable the ADVOCATE-GENERAL—I propose that we should, at all events, insert the word "lawfully" before "resumed." I do not think that because the Peishwa or any other Native potentate resumed wuttuns irregularly or arbitrarily therefore the British Government should do so.

The Honourable Mr. GIBBS—I have no objection to inserting that word, although this is but another example of how Government is distrusted.

The Honourable the ADVOCATE-GENERAL—The Government must act by agents, and these not being infallible are as liable to err as other men are.

The Honourable Mr. GIBBS—But if such an error were brought to the notice of Government, the matter would be rectified just as though this word "lawfully" were not inserted.

His Excellency the PRESIDENT thought there could be no objection to inserting "lawfully."

In lines 1 and 2 the words "from long abeyance" were struck out, and in line 3 "lawfully" was inserted before "resumed."

The section as amended was then agreed to.

Regarding Section XXII., the Honourable Mr. ROGERS said that it was a section which he could not understand.

The Honourable Mr. GIBBS—I suppose it is intended to prevent an officiator from mortgaging his future salary.

After some discussion it was decided to allow the section to stand over.

A discussion arose as to the meaning of the words "a principal sharer of a wuttun," occurring in Section XXIII.

The Honourable Colonel ANDERSON said he supposed that if one man held 6 annas to the rupee in a wuttun, and other two men held 5 annas each, the man with the 6 annas would be principal "sharer."

The Honourable Mr. ROGERS suggested that the Council had better have "representative wuttundar" defined in the Bill. He would remind the Council that a "representative wuttundar" need not necessarily mean the man who does the duties of the wuttun.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 26th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Saturday, the 27th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable COLONEL W. C. ANDERSON.

The Hereditary Offices Bill considered in detail.

The Council proceeded with the consideration of the Hereditary Offices Bill in detail.

The Honourable Mr. GIBBS recurred to Section IX., and said that the Honourable the Advocate-General had prepared a section to substitute for it. He might mention that in the original Bill there was a definition of the term "rack-rent." That Bill said, "The phrase 'full value' as applied to wuttun land shall mean the rack-rent, or full rent ordinarily paid by sub-tenants for land of similar quality in the same locality."

His Excellency the PRESIDENT enquired if it was not the fact that in the case of sub-tenancy, the real proprietor pays the Government tax?

The Honourable Mr. GIBBS having answered in the affirmative,

His Excellency the PRESIDENT remarked that in that case what the proprietor gets from the sub-tenant is over and above the Government tax.

The Honourable Mr. GIBBS—That is what is intended here.

His Excellency the PRESIDENT—Then if a Collector were proceeding to rack-rent he would make the land liable to the Government tax and whatever the proprietor could get out of the land. This is practically a double rent or two assessments.

The Honourable Mr. GIBBS—Suppose an honourable member had a lease-hold estate at home for which he paid one man £100, and the honourable member then sub-let it for £150, giving him a profit of £50. All that Government proposes to do here is to levy the sub-let price, and that is what is meant by "rack-rent."

The Honourable Mr. NARAYAN—But under this section the Collector might levy the mesne profits as well as the land tax.

The Honourable Mr. GIBBS—That cannot be reconciled with the terms of the 8th section.

The Honourable the ADVOCATE-GENERAL read the following section, which he proposed should be adopted in place of Section IX. :—" When by decree of any Court made before the date of this Act coming into force any land, being wuttun, has been given into the ownership or beneficiary possession of any person other than the officiator for the time being, it shall be lawful for the Collector, notwithstanding such decree, to assess the said land at the same rate as the other parts of the wuttun."

The Honourable Mr. GIBBS—This is merely to provide for the pay of the officiator.

The Honourable the ADVOCATE-GENERAL having enquired whether the pay of the officiator was levied according to any fixed principle,

The Honourable Mr. GIBBS replied that there was already a scale existing according to which officiators were paid.

The Honourable Colonel ANDERSON—Suppose that certain wuttun land having a survey assessment of Rs. 20 was liable to a payment of Rs. 10 joodee or quit-rent; then Rs. 10 forms the profit or wuttun emoluments of this portion of the wuttun lands. If this land had been sold to a person outside the wuttun he would have continued to pay the Rs. 10 joodee. It becomes desirable to increase the sum payable to the officiator, and had this land remained on the wuttun it would have been liable to a further payment of Rs. 5 a year on this account, or Rs. 15 in all. It will suffice if, notwithstanding the transfer, this land is still held liable to a similar rateable payment with the rest of the wuttun.

His Excellency the PRESIDENT—Would this section meet the case ?—"When by decree of any Court made before the date of this Act coming into force any land, being wuttun, has been given into the ownership or beneficiary possession of any person other than the officiator for the time being, such land shall be liable to contribution for the remuneration of the officiator in like manner and to the like extent, as if no such decree had been passed."

The Honourable Colonel ANDERSON—I think that section would meet the case perfectly.

His Excellency the President's amendment was agreed to.

The Honourable Mr. GIBBS said that Section XXII., which had been left out provisionally, might go out altogether. It was intended to prevent an officiator from mortgaging his pay, but that was already provided for by Section VI.

The section was accordingly struck out.

The Council then reverted to the consideration of Section XXIII.

The Honourable Mr. ROGERS—I have to suggest an alteration upon the words " representative wuttundars." The register which is to be prepared under Part IX. will not only include representative wuttundars, but also all those wuttundars who hold a share in a wuttun up to the eighth of a rupee. In this section, however, it is wuttundars who are entitled to officiate that we wish to register, and I would suggest that the words " for the performance of the duties of wuttuns " should be inserted after the words " representative wuttundars." There are two distinct kinds of wuttundars, those entitled to officiate and those who are representative, and from among the latter the officiator in the wuttun may be chosen.

The Honourable Mr. NARAYAN—It appears to me that under this Bill the Collector may appoint a perfect stranger to officiate.

His Excellency the PRESIDENT—But he would be merely a deputy, who would have no hereditary rights.

Consideration of the proposed change was after some further discussion postponed.

Referring to Section XXV., His Excellency the PRESIDENT said—I cannot understand how sub-sharers in a wuttun can ever be in the position of being representative Wuttundars, because the honourable member says in a subsequent section that when after investigation it appears to the Collector that the interest of any family or any distinct branch of it is or has become less than one-eighth of the wuttun, he shall then call upon all the Wuttundars belonging to the family or branch to nominate one of their number as representative.

The Honourable Mr. ROGERS said that that person would not be called on to serve.

His Excellency the PRESIDENT—But the first stage of the transaction is to get representatives, and the next to choose from among them the officiator. In the event of none of them being competent then a deputy may be elected.

The Honourable Mr. ROGERS—If there are more than eight sub-sharers in a wuttun they may appoint Bapoo as their representative, although Luxumon has the right to serve.

The Honourable Mr. GIBBS—But he must be a representative wuttundar or he cannot be an officiator, surely.

The Honourable Mr. ROGERS—Government cannot deprive particular men of their right to serve. A man may have no share and yet have a right to serve. A representative wuttundar must, however, represent at least an eighth of a share in a wuttun. That is according to Section XXX.

The Honourable Mr. GIBBS—Do I understand the honourable member to say that there are wuttuns in which a person has a right to officiate although not a representative wuttundar ?

The Honourable Mr. ROGERS—There are cases in Dharwar in which principal sharers have thrown up their lands altogether and still retain the right to serve.

The Honourable Mr. GIBBS—But surely these Dharwar cases are exceptional and may be provided for separately.

The Honourable Colonel ANDERSON—But it is the same all through the Southern Mahratta Country as it is in those cases in Dharwar to which the honourable member has referred. There are cases where men pay joodee in excess of the survey assessment upon the right to serve and depend for their remuneration upon what they can make out of the service.

The Honourable Mr. ROGERS—Power must be given to the Collector to determine who shall be representative wuttundars and who officiators, and it must be borne in mind that they may be distinct persons.

The Honourable the ADVOCATE-GENERAL—If the word "officiators" is used in this part of the Bill it will come into collision with Part X., which describes who shall be officiating wuttundars and deputies.

The Honourable Mr. ROGERS—I wish here that the Collector shall have full power to declare who shall be officiators.

The Honourable the Advocate-General—That would be more appropriately expressed in Sections XLII. and XLIII.

The Honourable Mr. ROGERS—But it must be put down in the register, which is referred to in the section before us.

His Excellency the PRESIDENT—I understand that no wuttun shall for the purposes of this Act be divided into more than eight shares, and that for each share there must be one representative wuttundar. And when a share is sub-divided among various persons, then the Collector shall call upon them to elect from among their number a wuttundar who shall represent the eighth share.

The Honourable the ADVOCATE-GENERAL—If that is the case, when we come to Part X., which specially concerns officiators, we can adopt the Honourable Mr. Rogers' suggestion.

The Honourable Mr. ROGERS—But I must repeat that it would be better to state it in this section, because the register must refer both to officiator and representative wuttundar.

After some further discussion,

His Excellency the PRESIDENT suggested that Section XXVIII. should be discussed before Section XXIV., which appeared to him to be out of its place.

The Council agreed to His Excellency's suggestion.

In line 5 of Section XXVIII. (as printed) "a" was substituted for "the" and after "of" the words "not less than" were inserted.

The Honourable Mr. ROGERS mentioned, in reply to a remark by the Honourable Mr. Gibbs, that there were many cases in which more than one member of the same family was entitled to serve. In Khandesh there were forty or fifty people performing service in this way in a single wuttun. He suggested the following alteration in line 3:—that the words:—"all or any of the members of" should be inserted before the words "any family."

The alteration was agreed to.

The Honourable Mr. ROGERS said that to meet the case of Tuksheemdars a new section would have to be prepared, and also one for those persons who, though they had relinquished their emoluments, had nevertheless retained their right of service.

After some conversation, the words "provided that," in line 1 of the new section were struck out; "all" was inserted after "upon" in line 6; in lines 7 and 8 the words "belonging to such family or distinct branch" were struck out, and the words "possessing such interest" substituted; in lines 8 and 9 "of their number" was substituted for "member thereof"; and in lines 12 and 13, the words "this proviso does not apply to matadar patels in Guzerat" were struck out.

The following new sections were inserted in the Bill:—

"When wuttun emoluments, although previously existing, have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the wuttundar were still in receipt of such emoluments."

"The provisions of the two preceding sections shall not apply to matadar patels in Guzerat or to holders of separate tuksheems or members of recognised separate branches of wuttuns held by persons of different castes, who, whether entitled to officiate as revenue patel or as police patel or not so entitled, shall be entered as representative wuttundars, whatever may be the amount of the share of each such person."

In line 1 of Section XXXI. (as printed) "the" was substituted for "their," and the words "of the wuttundars" were inserted after "failure"; in line 5, the words "to be considered as representative wuttundar" were inserted after "is"; and in lines 7 and 8 the words "under the above proviso" were struck out and "accordingly" substituted.

In line 3 of Section XXXIII., the words "Village Police" were struck out, and "or Village Accountant" inserted after "Patel."

The Honourable Mr. GIBBS said that Mr. Erskine suggested that the last five lines of the section ought to be made a new section.

This was agreed to, and the last five lines became a new Section.

The Honourable the ADVOCATE-GENERAL enquired what was the kind of "guardian" which was here referred to—a man who gets a certificate of guardianship or a natural guardian?

The Honourable Mr. GIBBS—It may be one or the other. If the guardian does not choose to perform the duties attaching to the representative wuttundarship, then the Collector shall appoint a deputy to perform these duties.

At the suggestion of the Honourable the ADVOCATE-GENERAL "may" was substituted for "shall" in the third line of the new section.

The Council then reverted to the consideration of Sections XXV., XXVI., and XXVII., as printed.

Referring to Section XXVI., the Honourable Mr. GIBBS said—Both Mr. Hope and Mr. Erskine object to the system of rotation which is sanctioned by this section. Mr. Hope says that allowing the establishment of the system of rotation by consent is contrary to the unanimous opinion of both committees on this Bill, and is simply destructive of one of the chief objects which the Bill is meant to attain. He, therefore, thinks that Section XXVI. ought to be expunged altogether, and that Section XXVII. ought to be considerably modified. Mr. Erskine says he objects to Section XXVI., inasmuch as he thinks rotation is admitted to be an evil, and he cannot see why wuttundars should be allowed to force the system upon Government. The great object of the Bill ought, he considers, to be to make the head of a family a person of importance and not to place a number of small sharers upon a footing of equality with him. Mr. Erskine also points out that all the members of committee upon the Bill objected to wuttundars choosing rotation if that system had not been customary with them.

The system of rotation strongly objected to.

The Honourable the ADVOCATE-GENERAL—I would propose that Section XXVI. be omitted. In the report issued in 1870 by the committee which was appointed to consider this question certain remarks occur which show that the system of rotation was not recognised under the Native rulers of the country; that in the early Regulations passed at the beginning of the century it was not recognised; and that in 1843 it was simply declared that the Collector should be competent to admit the system of rotation, although the faults of the system were acknowledged. I do not know why this Council should go further than the Act of 1843. In point of fact we are asked to legalise what appears to be admitted on all sides as a very great evil. I have received a communication on the subject from a Revenue Officer of very great experience.

The Advocate-General proposes the omission of the section sanctioning a Collector to introduce the system of rotation on the unanimous request of certain wuttundars.

The Honourable Mr. ROGERS here remarked that while the honourable member was speaking on the subject, he should keep clearly before him the important difference which there was between rotation for several years and rotation for life. All that the

honourable member had cited to the Council was utterly inapplicable to the case before the Council.

The Honourable Mr. GIBBS—I would point out that Mr. Erskine says it is true that the proviso at the end of Section XXXIV. reduces the evil to a minimum.

The Honourable the ADVOCATE-GENERAL—In Section XXXIV. it is prescribed that the period during which a representative wuttundar is to be entitled to perform the duties of the office is not to be less than ten years, nor, in the case of wuttundars who apply for the system of the Collector, less than for life; but nevertheless it does not appear to me that that proviso very materially alters the objections which have been taken to the system of rotation.

The Honourable Mr. NARAYAN—In the Concan it will very often be found that persons entitled to serve by rotation do not belong to the same family or caste.

The Honourable Mr. GIBBS—Where rotation has not been the rule in a place why should the system be started?

The Honourable the ADVOCATE-GENERAL—No doubt it says in this section that a majority of the wuttundars interested must make a written application for the introduction of the system; but the effect of that will be, it appears to me, simply to diminish the dignity of the office and the degree of importance attaching to it. If, however, the office was retained in the head of a family, treating him as the person entitled to officiate personally or by deputy, it will be attaching a very considerable degree of respect for the office—more so, at all events, than could be expected from a system by which a man becomes aware that after his death a person with whom he may have been in conflict all his life will succeed him and upset all that he had made it the pride of his life-time to carry out. For my part it does not seem to me to be desirable to extend this system of service by rotation, and therefore I must vote for the deletion of the section.

The Honourable Mr. ROGERS—Section XXVI. provides only for the recognition of the custom of service by rotation when it is to be for life, and therefore most of the objections which Collectors originally urged against the system, and which were chiefly directed to rotation for short periods, are completely done away with. One of the reasons which induced me to draft this section is that it is very often extremely difficult to say what rotation is and what is not. Take for instance the case of the matadar patels of Guzerat. Under Native Governments it was the custom to farm out the revenues of villages, and these patels were originally people who at various times took the farms. They were not necessarily of one family or of one caste, because of course different people at different times undertook to farm the revenues. When we took possession of the country we found that these farmers, or at all events their descendants, had been in the habit of being responsible for the collection of the village revenues, and although they were not then responsible for the actual collection, they were still responsible for the correctness of the entries in the revenue books. Hence arose the designation of matadar, or men having the right of signature. These men will be wuttundars under this Act, although their wuttuns are of a different nature from other wuttuns. The privilege of signing the revenue accounts is greatly prized, not so much on account of the emoluments as on account of the social position which the privilege confers upon the holder. I think, therefore, that as it has hitherto been the custom for the

Mr. Rogers contends that it would be unjust to Matadar Patels in Guzerat and others to vest the officiatorship of a watan in one family when other families had an equal right to the honour.

Collector, although there has been no distinct system of rotation recognised, to select from among these matadar patels one who shall be revenue patel, it would be very hard upon patels as a class to nominate one single person and make a patelship hereditary in his family, if the other people are willing that the right of nomination should vest in the whole of them. Although the word used here is "majority," it was not intended that the majority should have power to decide the question. It was meant that they should be unanimous, so that in cases where the system of service by rotation had not existed for thirty years, if patels came forward and "unanimously" agreed to adopt the system for life, then there should be no objection to their request being granted. Not only is there abstract justice in allowing these people whose wuttuns are to be amalgamated by this Act to have a chance of holding the officiating patelship, but I think it would be a positive injustice to them if the privilege were withheld from them. The same remarks apply to other parts of the country than Guzerat. Although we now make demands upon the whole of the wuttundars in a wuttun estate to provide for the pay of the officiator, yet the tuksheems and separate branches of different wuttuns have in reality been treated by the Courts as separate and distinct property. Therefore I say it would be unfair to amalgamate the whole of the wuttuns for the purpose of paying an officiator and yet deprive the remainder of the wuttundars from ever holding the office of patel or enjoying the social position attaching to wuttundars. I believe that if you asked the Collectors one by one they would admit that their objections are altogether done away with by having a system of rotation for life instead of for short periods of years. As to the latter system there can be no doubt of its evils, especially with regard to the bribery and corruption it would give rise to. I believe that by adopting this section we shall give an immense deal of satisfaction to a large number of people, who believe that if they are not recognised as patels they will lose their social position and be unable to get their sons or daughters married into respectable families. The only alteration I would recommend upon it is that we substitute "unanimously" for "majority."

The Honourable Mr. GIBBS—I feel myself to be in much the same position as the Honourable the Advocate-General in holding a brief for one of the sides of the revenue authorities of this Presidency. I am instructed, and from what I have heard I am also personally convinced, that rotation is in itself an evil, and we should reduce it to the smallest possible amount. I have already read to the council the views of Mr. Erskine, one of the ablest Collectors in the Deccan, and of Mr. Hope, one of the ablest Collectors in Guzerat, and I may add that I believe similar opinions are held by Mr. Robertson of Dharwar. There is thus one authority on the subject in each of the great divisions of the country. Beside that, it is the opinion of the Chief Secretary of Government, who has had large experience all over the Deccan; of my honourable friend on my right (Colonel Anderson); of the Committee of Revenue Officers who sat to consider this Bill; and also of the present Revenue Commissioners, that the system of rotation is undesirable. In the presence of such an array of authorities on the one side, I feel that it would be a very serious matter if this Council were to go with my honourable colleague, Mr. Rogers, who stands almost alone in the views he has expressed. The honourable member has told us that the chief argument in favour of the section is that all wuttundars, in particular cases, should have a chance of obtaining the right to officiate; but if the social status of certain families is to be preserved simply on the chance of a member of some of them becoming an officiator, I am afraid that their social status is resting upon a very insecure foundation. At the same time, however, I believe it

is the case that the mere declaration of a man as a wuttundar gives him a social status which, though not so high as the person who actually officiates, is yet of importance enough to entitle him to be reckoned among the gentry of the country. Looking at the other side of the question, however, I think that the fact of the officiating duties being performed hereditarily in one family has a great many benefits. For one thing, it effectually prevents enmities from arising between branches of families in consequence of the possession of the wuttun. Under the rotation system, a man might say, "So-and-so is officiator now, but it will be my turn next to be officiator, and when I get in I shall upset all that he has done." Under the permanent system, it is very likely that an officiator, in the latter years of his life, would carry on the duties through his son, and therefore it is probable that one unbroken regular policy would pass from father to son—an advantage of considerable importance. By the permanent system Government would be much more likely to obtain the services of good officers than it would be if it allowed men to act who had no prescriptive right to do so, but had to depend upon a number of other persons consenting to such an arrangement. Although it is urged that the rotation intended here is life-rotation, still in the face of the great number of authorities whose opinions are opposed to such a system, I think it my duty to support the motion of the Honourable the Advocate-General.

The Honourable Mr. ROGERS—I would remark, in reply to the Honourable Mr. Gibbs' argument, that under the permanent system a son would very likely do the duties of the wuttun in the name of his father, that the same thing would be just as likely to take place under the life-system of rotation.

The Honourable Mr. GIBBS—But the son would not have the same good reasons for carrying on the duties efficiently, because he would feel that he was only acting temporarily.

The Honourable Mr. NARAYAN—In supporting the views of the Honourable Mr. Rogers, I would point out that Act XI. of 1843 does recognise the system of rotation. The Collectors ought to be allowed to perpetuate the system of rotation in many cases which occur throughout the Concan, where it is already the practice to admit service by rotation. If the system is continued because it may have existed for thirty years, I really do not see why it should not be introduced if a body of wuttundars unanimously ask the Collector to introduce it.

The Honourable Colonel KENNEDY—Are those gentlemen who object to the system aware of the fact that the concurrent consent of all the wuttundars is requisite before the system of rotation can be adopted ?

The Honourable Mr. GIBBS—Mr. Erskine must be, at all events, because he speaks of Section XXXIV. as reducing the evils to a minimum.

The Honourable Colonel KENNEDY—Where there are numerous families involved, a regular permanent system of doing duty could hardly be agreed upon.

The Honourable Mr. NARAYAN—That is just the point. There are numerous cases in which persons qualified to officiate do not belong to the same family, nor even to the same caste, for at one time the officiator may be a Brahmin, and at another a member of the goldsmith caste. I know that the wuttun of collecting the revenue in Vingorla is held by people of four different castes.

The Honourable Mr. BYTHELL—According to the extract which the Honourable Mr. Gibbs has read from Mr. Erskine's letter, the evil has been reduced to a minimum, and we must add to that fact that the Honourable Mr. Rogers, who has had very great experience in the matter, has told us that if we reject this section we shall be causing great injustice to certain families without securing any tangible results.

The Honourable Colonel ANDERSON—The question appears to me to be this, what plan of getting an officiator will ensure the best service to Government? and my own opinion is that the best service to Government will be ensured by increasing as much as possible the dignity of the family holding the right to the office. If the office is passed from family to family in rotation, it is evident that all the advantages secured by the permanent system will be in some degree lost. The advantages of the rotation system will be very hard to find. It is scarcely necessary for me to go into all the reasons against rotation: the almost complete consensus of opinion against it should, I think, suffice the Council. We are compelled to adhere to the system where a prescriptive right has been created, but beyond that I do not think we should extend it.

The Honourable Mr. ROGERS—The Honourable Colonel Anderson has advanced but theoretical objections to the system, while I have advanced one tangible reason for agreeing to this section—namely, that unless we allowed certain wuttundars to say whether they will have the system of rotation, we shall be committing a gross injustice upon numerous families.

The Advocate General thinks there can be no injustice done to any wuttundars unless where vested interests were created by custom.

The Honourable the ADVOCATE-GENERAL—There can be no gross injustice done where an interest had not been vested in a community. By giving all families, or all wuttundars in a wuttun in which a thirty years' custom has been established, the right to enjoy that custom, we do all that is required in the interests of justice. The Honourable Mr. Rogers admits that service by rotation is an evil.

The Honourable Mr. ROGERS—Only service by rotation for short periods.

The Honourable the ADVOCATE-GENERAL—I do not myself follow the argument that there is much difference in the system whether it be for a long or a short period. It appears to me that no good grounds have been shown for extending the system to cases where a user has not been established, and I am now firmer in my opinion than I was before this discussion started that only in cases where a vested interest in rotation has been created should rotation be recognised.

The Honourable Mr. ROGERS—No particular virtue should attach to a thirty years' period.

The Honourable the ADVOCATE-GENERAL—That is the period which has been recognised by Regulations passed early in the century, and which has been recognised ever since. According to the Hindoo idea a hereditary right is as much property as land.

The Honourable Colonel KENNEDY—The clause as it is proposed to amend it implies the consent of the wuttundar for the time being. Under the condition of "unanimity" he himself must be willing to allow the system of rotation to take place; otherwise it cannot take effect.

The Honourable the ADVOCATE-GENERAL—Certainly I think if the existing incumbent's vote must be taken he will vote against the system of rotation, and so make the section a dead letter.

His Excellency the PRESIDENT—It seems to me that what the Collectors want would, if carried out to its full extent, amount to conferring these offices time after time upon the same family. These wuttuns are however in reality corporations, and the effect of the change proposed by the Collectors would be to make these corporations petty peerages. You may call certain families wuttundars, but if they are never allowed to serve, their right must become extinguished.

The Honourable Mr. BYTHELL—One advantage of retaining the section is that the Collector will have a number of families to choose among, and when that is the case there is less chance of an idiot or incompetent person being made to officiate.

The Honourable Mr. NARAYAN—Moreover, where a son succeeds his father, he will, if the latter has been guilty of any malversation, be less interested in exposing it, whereas if a new man is put in he will more likely report the matter to Government.

After some further discussion, the Council divided on the Honourable the Advocate-General's motion, that Section XXVI. should be omitted :—

Ayes—3.	*Noes*—8.
The Honourable J. GIBBS.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable the ADVOCATE-GENERAL.	The Honourable A. ROGERS.
The Honourable Colonel W. C. ANDERSON.	The Honourable MUNGULDASS NUTHOOBHOY.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable Sir JAMSETJEE JEJEEBHOY.
	The Honourable NARAYAN VASUDEVJEE.
	The Honourable J. K. BYTHELL.
	The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The amendment lost. The motion was therefore lost.

The Honourable Mr. ROGERS—To meet the cases where sharers belonging to different branches of families have a right to serve at the same time, I wish to give the Collector power to choose between them by the following section :—" Where any family distinct from that of the original wuttundars has enjoyed the right to serve as deputies for the latter, such practice shall be recognised, and the provisions of this Act shall apply to such deputies equally as if they had been the original wuttundars, and it shall be lawful for the Collector to exact services from all and to provide for the remuneration of the officiator from such distinct family out of the wuttun in the same manner as if he had belonged to the original family of wuttundars."

The Honourable Mr. MUNGULDASS mentioned that H. H. Scindhia and H. H. Holkar were patels of villages and insisted upon their right of the enjoyment of their wuttuns.

The Honourable Mr. NARAYAN corroborated the Honourable Mr. Munguldass, and mentioned that he knew H. H. Scindhia to be patel of Wanowrie village, near Poona.

The Honourable Mr. GIBBS mentioned that these villages were distinguished for being the haunts of disreputable characters.

The Honourable the ADVOCATE-GENERAL—How are persons who have given up their right to emoluments but not to service affected by the Bill as it stands at present?

The Honourable Mr. ROGERS—Section XXX. does not acknowledge them at all, as they are not concerned in the eighth part of a wuttun.

The Honourable the ADVOCATE-GENERAL—I think that the honourable member might give notice of this amendment for the third reading.

The Honourable Messrs. BYTHELL and GIBBS thought that the section should be accepted provisionally, and Collectors would be able to state their objections to it before the third reading of the Bill.

The section was held over for insertion in the latter part of the Bill.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Poona, 27th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the "purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Monday, the 29th September 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
His Excelleney the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

The Hereditary Offices Bill considered in detail.

The Council proceeded with the consideration of the Hereditary Offices Bill in detail.

His Excellency the PRESIDENT—We proceed to-day with Section XXXIV. as printed.

The Honourable Mr. ROGERS—I think we ought to strike out any allusion to Section XXVI. in the first part of this section, because the Collector need not take into consideration whether the custom of rotation has existed or not for thirty years so long as the wuttundars wish it to be introduced.

The Honourable Mr. GIBBS suggested that the words "thirty years" should be struck out from line 9.

His Excellency the PRESIDENT thought it would be better to say "a period *not less* than thirty years," &c. He wished to make the first section apply to cases under thirty years, and which were not referred to by Section XXVI.

After a brief discussion His Excellency the PRESIDENT moved that the second paragraph of the section should be omitted, and the following sentence substituted:—"The practice observed during the period immediately preceding the date of this Act coming into force, whether such practice shall have existed for a period of not less than thirty years or for a period less than thirty years as the case may be."

The amendment was agreed to.

The fifth paragraph was struck out, and the following proposed to be substituted as a new Section:—"In the event of the wuttundar officiating dying before the expiration of his fixed period of service his heir shall be entitled to officiate for the remainder of that period."

The Honourable Mr. GIBBS—I understand that it was intended that the period of rotation should not in any case be less than ten years, and that in the event of an officiator dying during his period of service his heir should be entitled to complete the period of service.

The proposed amendment was agreed to.

His Excellency the PRESIDENT did not think the latter part of Section XLIII. in accordance with the general principle of the Bill, as he did not think a Collector should have power to elect a deputy wuttundar to officiate. The section as it stood at present gave the Collector absolute power to put in his own nominee without consulting any of the persons interested—a power which he objected to.

The remainder of the section from "deputies" in line 8 was struck out, and the section as amended was agreed to.

Regarding Section XLV. the Honourable Mr. GIBBS said—The Collector may refuse to accept the service of any representative wuttundar if he thinks he is physically or mentally incompetent to perform the duties of the office, but I believe it is suggested that the Collector should also have power to reject on the score of moral infirmity.

His Excellency the PRESIDENT objected. A definition of morality would then be required.

The Honourable Mr. RAVENSCROFT—But I suppose it will at all events be necessary to provide against the appointment of a man of known bad character.

His Excellency the PRESIDENT—Even that would require to be agreed to very cautiously. If a man were to get into a slight dispute, that might be construed into known bad character, and yet I do not think such an offence should disqualify a wuttundar from serving.

The Honourable Mr. ROGERS suggested that bad character should be judged of by the length of term of imprisonment a man was sentenced to, say six months.

The Honourable Mr. MUNGULDASS—I must object to that. For mere abuse a man may be sentenced to two years' imprisonment, and certainly when abuse among a certain class of natives is so rampant, I think it would be very hard to disqualify a man if he happened to commit the offence.

His Excellency the PRESIDENT—I think that in the rules we would enumerate the offences for which a man may be deprived of his right of service, and in the meantime I suggest that we should insert the words "of known bad character" after "is" in line 6.

The amendment was agreed to.

In consequence of the wording of Section XLVI. being considered defective, the Honourable Mr. GIBBS proposed the substitution of the following section :—"In the event of any wuttundar entitled to officiate becoming physically or mentally incompetent the Collector shall in the former case call upon him to appoint a deputy, and in the latter case shall himself appoint a deputy. In the event of a deputy becoming physically or mentally incompetent the wuttundar entitled to officiate shall be called upon to appoint another deputy in his place."

The new section was agreed to.

His Excellency the PRESIDENT then proposed that the following section should be substituted for Section XLVII. :—"In the case of any nomination of a deputy the Collector shall allow a second nomination to be made in case of his rejecting the first nomination, and if he shall reject the second nomination he shall himself appoint a deputy."

This was agreed to.

The Honourable Mr. ROGERS having suggested that the wuttundar should be rejected or removed if of known bad character, the words "as being of known bad character" were inserted after the word "rejected" in line 2 of Section XLIX.

The Honourable Mr. ROGERS proposed the following new section LV. :—"Where any family distinct from that of the original wuttundars has enjoyed the right to serve as deputies for the latter, such practice shall be recognised, and the provisions of this Act shall apply to such deputies equally as if they had been the original wuttundars, and it shall be lawful for the Collector to exact service from and to provide for the remuneration of the officiator from such distinct family out of the wuttun in the same manner as if he had belonged to the original family of wuttundars." The honourable member asked the Honourable Colonel Anderson whether he had ever heard of any hereditary practice such as this section referred to?

Service by Hereditary deputy to be recognised equally with the service performed by original wuttundars.

The Honourable Colonel ANDERSON replied in the affirmative.

The Honourable Mr. ROGERS mentioned that the section had been framed from actual information given by the Collector of Dharwar.

The Honourable Mr. GIBBS asked whether there were any hereditary deputies in patellships and koolkurnieships?

The Honourable Mr. ROGERS answered in the affirmative and said that these were the very cases about which Mr. Robertson told him.

The section was then agreed to.

Regarding Section LV. (as printed) the Honourable Mr. MUNGULDASS observed that under Act XI. of 1843 the action of the Collector had to be sanctioned by the Governor in Council, but according to this section as it stood the Collector might do as he pleased without opposition.

The Honourable Mr. NARAYAN thought that in cases of suspension of officiators for a period of six months, an appeal to the Revenue Commissioner should be provided for.

Should a whole wuttun be forfeited for the misconduct of an officiator? or merely the life-interest in it of the offending officiator?

The Honourable Mr. GIBBS suggested that the subject should stand over until the penal sections were being considered.

The Honourable Mr. RAVENSCROFT thought Section LVII. unnecessary, considering that previous sections excluded persons of "known bad character" from being elected.

The Honourable Mr. ROGERS thought it advisable to allow the section to remain, as it would work beneficially in hanging *in terrorem* over careless officiators in hereditary offices.

The section was agreed to.

His Excellency the PRESIDENT considered Section LVIII. to be a very severe one. He did not think that on an officiator being convicted in a Criminal Court of any offence in the discharge of his official duties, Government should direct the forfeiture of the whole or part of the wuttun and profits.

The Honourable Mr. ROGERS said that the question was fully discussed when Act XI. of 1843 was passed, and this penalty was in that Act.

His Excellency the PRESIDENT nevertheless thought it was very harsh.

The Honourable Mr. MUNGULDASS—In the Select Committee we did our best to get the honourable member to withdraw this section because we considered it harsh.

The Honourable Mr. NARAYAN—It is certainly unjust to render a whole wuttun and profits liable to forfeiture because a man who has only a life-interest in the wuttun has committed some fault. It must be remembered that minors as well as officiators are interested in the property, and if their interests are swept away because of the fault of a person who has only a life-interest in the wuttun the procedure cannot be just. If a Hindoo cannot sell ancestral property, surely ancestral rights cannot be alienated in this manner.

The Honourable Mr. ROGERS—It must not be forgotten that this power cannot be put in force except for offences of no ordinary importance—namely, malversation or fraud.

The Honourable Mr. MUNGULDASS—I remember there being a provision, showing that where a man has been found guilty of such offences the property concerned reverts to the minor.

The Honourable Mr. GIBBS—I think that where a villager has been convicted of any of these offences his life-interest, at all events, ought to be confiscated.

The Honourable Mr. RAVENSCROFT—At the time when we took possession of the country a system of joint security prevailed. One of the men of a village had, on behalf of his fellow-villagers, to give a jumpli-bund—that is, joint security—that no crimes would be committed in that village. If a crime were perpetrated, notwithstanding this undertaking on the part of the villagers, the people in the village were subjected to pay fines in proportion to the enormity of the offence committed. I repeatedly, when a magistrate in Guzerat, had to fine a village Rs. 1,000 in which an offence had been committed, and this, too, notwithstanding that the real offender was never found out. The same principle is laid down in this section, where a village wuttun must be held responsible for the offences committed by officiators. I think the system, however, is a relic of the old times of feudalism which we may modify now-a-days.

The Honourable Mr. GIBBS—There is a good deal of force in what the Honourable Mr. Ravenscroft has said. I remember that after Sir Charles Napier conquered Sind he found that the result of punishing the murder of women with severity led to the prevalence of female self-destruction to an alarming extent. This was a novelty, but he met the case by an arrangement with the villagers, holding them responsible for every case of female suicide that occurred in each village. This had the effect of reducing the evil to a minimum.

The Honourable Mr. NARAYAN—Such a practice might be justified in a province which was in a peculiarly unsettled state, but I do not think it is called for in the greater part of this Presidency.

The Honourable Mr. ROGERS—The section, I repeat, applies only to cases in which fraud or malversation is committed, and a patel cannot commit any of these offences without the other wuttundars being cognisant of it.

The Honourable Mr. NARAYAN—Whatever we do, we should only touch the life-interest. The present section is extremely arbitrary. If a patel commits a fraud in the measurement of a field, and the other villagers are not aware of it, why should the penalty for such an offence be visited upon minors, who had nothing to do with the transaction?

The Honourable Mr. ROGERS—During the last twenty-five years I do not believe that more than three wuttuns have been confiscated in this Presidency.

The Honourable Mr. NARAYAN—Take the case of an English peer. Can his children be deprived of their interest in the estate in entail for an act of grave misconduct on his part ?

The Honourable Mr. GIBBS having answered in the affirmative,

The Honourable Mr. NARAYAN said that that would be done only in cases of treason.

The Honourable Mr. ROGERS proposed that the section should stand.

His Excellency the PRESIDENT asked whether this power existed before the Act of 1843 ?

The Honourable Mr. ROGERS said that at all events the Act was fully discussed before it was passed, and the Government of India gave its sanction to it.

The Honourable Mr. RAVENSCROFT—If fraud or malversation were committed in a wuttun, all persons concerned in the wuttun would know of it, I think.

The Honourable Mr. NARAYAN—I doubt that. I had an interest in a wuttun in the Concan, but I never took any interest in it. The emoluments are something like Rs. 136 per annum, and that is divided among twenty-six sharers. Now a fault might be committed of which all these could not possibly be cognisant.

The Honourable Mr. RAVENSCROFT—There is no doubt that Collectors and district officers place great reliance upon a section of this description, because it induces patels and others to be very careful. In my opinion this section will never work harshly.

The Honourable Colonel ANDERSON—The section is exactly in accordance with the ancient customs of the country.

The Honourable Mr. NARAYAN—That is not a very good argument. Although formerly men were hanged for committing forgery, yet scarcely the same punishment would be inflicted now.

The Honourable Colonel KENNEDY—I feel that the section is harsh, and I would vote for the punishment being confined to forfeiture of life-interest.

After some further discussion, the Honourable Mr. NARAYAN moved the omission of the words " whole or part of the wuttun and profits," in lines 6 and 7, and the substitution of the words " life-interest of such officiator in the wuttun and profits."

The Council divided :—

Ayes—6.	*Noes*—3.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.	The Honourable Colonel W. C. ANDERSON.
The Honourable Sir JAMSETJEE JEJEEBHOY.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	

The motion was carried.

The Honourable Mr. RAVENSCROFT declined to vote.

Lines 9 and 10 of Section LIX. were struck out and the following words added after the word "the" in line 8:—"life interest in the wuttun and profits of the representative wuttundar by whom such deputy was appointed, and likewise the life interest, if any, in the wuttun and profits of such deputy."

The Council then reverted to Part VIII.

After a brief discussion the words "the Revenue Commissioner and" were struck out from lines 2 and 3 of Section XXXVII. The words:—"to perform the duties as may to the Collector seem expedient" were also struck out, and the words:—"as may be necessary to perform the duties which the Collector may assign to them severally and jointly" substituted. The words :—"up to five rupees" were struck out from line 28.

Regarding Section XXXVIII., the Honourable Mr. ROGERS thought that a distinct form of register ought to be agreed to, so that it might be shown that it was not intended to register the lower classes of village officers.

The Honourable Mr. GIBBS was of opinion that it was perfectly well understood that the lower description of officers were not to be registered, but he objected to the Council fixing upon any particular form of register, as that might be altered in a short time.

The Honourable Mr. ROGERS—If we agree to a register now, Collectors will be able to point out its defects and make suggestions before the third reading comes on.

The Honourable Mr. GIBBS—Even at the third reading, I do not think it would be advisable to agree to a certain form of schedule, for, however complete we may consider it to be, it will be sure to want altering in a short time. Look at the Sind Act schedule, and the Council will have an example of how often a schedule may have to be amended.

The Honourable Mr. ROGERS—We must state in this register the persons who are entitled to officiate besides describing properties in it.

His Excellency the PRESIDENT suggested that two registers instead of one should be referred to in the section.

The Council approved of the suggestion, and the section was amended as follows :—"Registers" was substituted for "a register," and the latter paragraph was altered to read thus—"The registers shall be in the form which Government may from time to time prescribe. There shall be one register of the lands and allowances in consideration whereof liability to perform service exists, and another of lands and allowances in respect of which no such liability exists."

In line 1 of Section XXXIX., "In recording" was struck out, and the words "the register of lands and allowances" substituted.

In the first line of Section XL., "In recording" was struck out, and the words "the register of" inserted.

On the suggestion of the Honourable Mr. ROGERS paragraphs *c* and *d* were amended as follows :—the words "and if so the order in which the representative wuttundars" were struck out, and the following words inserted after "rotation" :—"or not: if not performed in rotation the name of the person or persons solely entitled to serve and the capacities in which they are so entitled to serve : if performed in rotation, the order in which the representative wuttundars or wuttundars entitled to officiate." As paragraph

d the following words were inserted :—"The share possessed by each representative wuttundar."

The Honourable Mr. GIBBS thought that all this was already provided for.

The Honourable Mr. ROGERS said that this was merely a description of the register, and he did not see why any objections should be raised to it.

The amendments were agreed to.

In line 1 of Section XLI., the words "Under the preceding section" were inserted after "Register."

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 29th September 1873.

Abstract of the Proceedings of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Tuesday, the 30th September 1873, at noon.

PRESENT.

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable COLONEL W. C. ANDERSON.

The Hereditary Offices Bill considered in detail.

The Council proceeded with the consideration of the Hereditary Offices Bill in detail.

In considering Part XII., "Miscellaneous", His Excellency the PRESIDENT observed that Mr. Erskine, Collector of Nasik, had suggested that in the last line of Section LXI. the words "is required by law" should be struck out, and the following words substituted:—"may, subject to the general orders of Government, be required of them by the Collector."

The Honourable Mr. MUNGULDASS said that at present hereditary officers were only compelled to do certain services, whereas by the alteration suggested by Mr. Erskine they might be compelled to do a great many more than they have hitherto been accustomed to do.

The Honourable Mr. NARAYAN—I agree with my honourable friend Mr. Munguldass. Such services alone as they have been accustomed to perform should be exacted from hereditary officers.

The Honourable Mr. GIBBS—One of the previous Acts uses the words that they may be called upon to do what may not be inconsistent with the position of the person called upon to do certain duties. This is the only law there appears to be upon the subject.

The Honourable Mr. NARAYAN—If we give Mhars or any other hereditary officer more work than he has to do at present, we must give him additional remuneration.

The Honourable Colonel ANDERSON said that they would never object to do what the Collector might ask them to do.

The Honourable Mr. MUNGULDASS—But why compel them by law to do what they are not bound to do?

The Honourable Mr. NARAYAN—Certainly, we do not object to the section as it stood originally in the Bill, but we must object to the alteration. Under the general orders of Government a whole district might be surveyed, and the survey officers under such a section as this would ask the patel to pitch tents for their use.

The Honourable Colonel ANDERSON remarked that they would do so if it was customary for them to do such work.

The Honourable Mr. GIBBS—It was to simplify matters that Mr. Erskine's words were adopted, so as to prevent one Collector from doing one thing and another Collector from doing another thing.

The Honourable Colonel KENNEDY inquired whether the use of "customary" would not cover every objection?

The Honourable Colonel ANDERSON said it would not, because though some things may be at present customary to do, something else might arise which a hereditary officer ought to do.

The Honourable Mr. NARAYAN—I submit it is just that something else which we wish to avoid.

His Excellency the PRESIDENT—In the case of removing prickly-pear from a public road in a village, surely the Collector would be bound to call upon the wuttundars to increase the income of the officiator.

The Honourable Colonel ANDERSON—Ten minutes' work would not be much for a Mhar to do. His salary is not a very large affair, and he would not object to do what the Collector might ask.

The Honourable Mr. NARAYAN said that if a Mhar's salary was not great, that was another reason why additional work should not be thrown upon him.

The Honourable Colonel ANDERSON remarked that he alluded to taking away a little prickly-pear obstructing the road in a village—ten minutes' work.

The Honourable Mr. NARAYAN said that it might be a very serious duty. On the same principle the Mhar might be called upon to clear away a jungle anywhere.

The Honourable Mr. GIBBS—I think we might leave the section alone as it has been altered. No Mhar would ever disobey what a Collector told him to do.

The discussion dropped.

Village documents to be within the reach of Government.

Regarding Section LXII., the Honourable Mr. ROGERS said:—This section was introduced because it is necessary that records prepared by a hereditary officer should be within the reach of Government. It has been found that the Dessais and hereditary district officers of that description had prepared certain revenue documents during the time of the late Government, and were using them to uphold their own claims to hold certain lands free, and that when the British Government officers wished to see these documents, the hereditary officers alluded to would not give them up. The principle seems to be a just one, that all records of that description ought to be the property of the State and should be used only for State purposes.

The Honourable Mr. RAVENSCROFT—Some years ago, when I was employed on special duty in Guzerat, I did obtain from Dessais and others some records and old forms of Government, but at the same time I think that Government should have a right to demand the production of such documents when required for State purposes.

The Honourable Mr. GIBBS—I agree with the honourable members as to the necessity of this section. At present we possess all the records of the Peishwa, and beautifully kept as well as most useful documents they are.

With regard to Section LXIII. the Honourable Mr. ROGERS said—I think that if the Council will look at it carefully they will see that there is a considerable degree of confusion in its wording, and it would appear as if the drafter of it were not sure whether to allude to "principal wuttundar" or "representative wuttundar." The same confusion exists throughout the whole Bill, as we have amended it, and I would wish the Council to bear that fact in mind. The distinction between the officiating and the representative wuttundar seems to have been forgotten, especially the important fact that the officiating wuttundar may not necessarily be the representative wuttundar. I therefore think it would now be necessary to set up a clear distinction between representatives and officiators, and for that purpose we shall require to refer to sections which have been already passed. In some of these sections it will be found that "principal wuttundar," does not refer to anybody but "representative wuttundar," and it will be necessary to be consistent in the terms we use.

The Honourable Mr. GIBBS—I believe that the words "principal wuttundar" were put into this Bill purposely to enable certain persons who have nothing whatever to do with officiating to sign accounts if they insisted upon doing so according to their ancient custom. Many people of that description consider that their social status would be affected if they were not permitted to sign.

His Excellency the PRESIDENT—I think that the word "principal" should be made "representative," because I believe it is intended that the right to sign is meant to be given to a man holding an eighth share or representing an eighth share of a wuttun. We have already distinctly declared the principle that in the event of an eighth part of a wuttun being held by a number of persons, the Collector shall have power to say that they must elect one man to represent them and their shares, so that a complete eighth of a share in the wuttun may be represented. The person then elected becomes a "representative wuttundar," and surely it is not intended that the right to sign shall be vested in persons of less importance in the wuttun than the "representative."

The Honourable Mr. GIBBS agreed with His Excellency.

His Excellency the PRESIDENT—I would suggest that the following words in lines 3, 4, 5, 6, and 7 should be struck out:—"The principal wuttundars, that is to say, those recognised by the Collector as entitled to"; and that the following words be substituted:—"Every wuttundar holding or representing."

The amendment was agreed to.

The following was also substituted for the latter sentence of the section:—"The above restriction as to amount of share does not apply to matadar patels in Gujarat or to holders of separate tuksheems or members of recognised separate branches of wuttuns held by persons of different castes."

In line 7 of Section LXIV. the words "or officiating" were inserted before "wuttundar," and the following sentence was added to the section:—"In each such investigation the Collector or other officer shall record his decision, with the reasons therefor, in his own handwriting."

Regarding Section LXXII., the Honourable Mr. ROGERS mentioned that under the old Act a Civil Court could entertain a suit questioning the decision of the Collector under

this Act if the rights of private parties *inter se* to recognition as the holder of any headship or a family or principal share are concerned; but according to this section no exception to the power of the Collector could be taken in any case.

The Honourable Mr. GIBBS observed that the latter part of the old section was omitted because it was deemed to be unnecessary.

His Excellency the PRESIDENT said that under this section the Collector would have power to decide arbitrarily who should be representative wuttundar.

The Honourable Mr. NARAYAN—The Collector might put *A* in as representative wuttundar, and if *B* had a claim to a share in the allowances, and wished to establish it in a Civil Court, he would be debarred by this section from getting any redress.

The Honourable Mr. GIBBS—This section could not interfere with a man's civil rights. Practically this section would have no evil effects, because if a Collector did happen to appoint a Perkin Warbeck to an officiatorship, he would immediately take steps to remedy the matter whenever he found the man to be an impostor. If a man were proved to be an impostor in a Civil Court—and there is no objection to any man endeavouring to prove such—the Collector would at once act on the Court's decision.

The Honourable Mr. NARAYAN—Nevertheless I do not think that by adopting the old section we would do any harm, while it would re-assure persons who are doubtful about the force of the present section.

The Honourable Mr. GIBBS—If we adopt the old law we will simply induce people to enter into a deal of litigation.

The Honourable Mr. NARAYAN—I propose that Section XXXIII. of the old Bill be substituted for Section LXXII. of this Bill.

The Council divided on the Honourable Mr. Narayan's amendment:—

Ayes—5.	*Noes*—4.
The Honourable A. ROGERS.	The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable Colonel M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY.	The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel W. C. ANDERSON.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	

His Excellency the President gave his casting vote against the amendment. The motion was lost.

The Honourable Mr. ROGERS—Unless we make a number of alterations on this Bill it will be going out to the public in a state of great confusion. To assist to make matters clearer, we ought to have a definition of "representative wuttundar," and I propose that the following be inserted among the definition clauses:—"Representative wuttundar means a wuttundar whose name may under the provisions of this Act be entered in the register by the Collector as the sole owner of or part sharer in a wuttun, whether according to the practice of the wuttun he be entitled to perform the actual service pertaining to the wuttun

or not." I also wish to make a clear distinction in the Act between wuttundars entitled to officiate and officiators who may be appointed to do the duties of the wuttun. I have a number of amendments to propose upon the various sections.

The Honourable Mr. GIBBS—I think that we might agree to the Honourable Mr. Rogers' amendments just now and consider them more fully before the third reading.

This course was agreed to.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Poona, 30th September 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Thursday, the 2nd October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honorable Colonel W. C. ANDERSON.

The third reading of the Road Tolls Bill postponed.

His Excellency the PRESIDENT said that the first order of the day was the third reading of the Tolls Bill, but as some alterations must be brought forward upon it which were not quite ready, the third reading of the Bill had better be postponed until some future day.

The Council agreed to the suggestion of His Excellency.

Mr. Gibbs moves the second reading of the District Municipal Bill.

The Honourable Mr. GIBBS then moved the second reading of Bill No. 8 of 1873 —(a Bill for the better management of Municipal affairs in Mofussil Towns and Cities), and in doing so said—In moving the third reading of this Bill I shall make a few observations concerning its principles. The Council is doubtless aware that this Bill, as originally drafted, was prepared under the supervision of a Committee composed of some of the ablest Revenue officers of the Presidency, and that that Committee was appointed only after a very lengthy correspondence had taken place between the different departments upon the subject. I personally had nothing to do with the origin of this Bill, it has been left to my care as a member of this Council to introduce it to the notice of the Council; and I may say this much, that when I first read it, it struck me that there were portions of it which were objectionable, and that it would require to be considerably altered before it could be brought into law. The Bill as amended by the Select Committee has now been before the public for some time, and has been commented upon by a good many of the newspapers of the Presidency, Vernacular as well as English, and all that has been said by these papers I have collected in order that their opinions might if possible assist me. I cannot say, however, that I have got much information from that source. We have received petitions upon the Bill from Ahmedabad, Tanna, and elsewhere, and it will be observed that the objections taken by the various associations apply more to the details of the measure than its principles. I have received a number of suggestions from the Chairman of the Callian Municipality, some of

which are very valuable, and will doubtless be looked upon as such by the Council. The first great principle wherein this Bill differs from the Act at present in force has been already alluded to by me—I refer to the Bill giving power to Government to erect a municipality in such places as it considers necessary. In the Legislative Council of the Governor General, the Honourable Mr. Chapman alluded to the sham of making it dependent on the people to have a municipality or not, and I must agree with the honourable gentleman in the epithet which he applied to the existing system for creating municipalities in the mofussil. In all the Municipal Bills which have lately been introduced into the Governor General's Council—the Central Provinces Municipalities Bill, the Punjab Municipalities Bill, and the Burmah Municipalities Bill—the principle has been laid down and adhered to, that it should rest with the Government, in the first instance, to propose a municipality for any town or village. We are now following out the same principle in the Bill which we have before us. This principle has been a good deal commented upon in public, but I have not been able to find any good reason for the objections, and I do not think that the objectors could have fully kept before them the respective merits of the old and the new system. According to the old system, a petition asking for a municipality had to be presented to Government, which then ordered a notice to be issued, calling upon any persons who had objections to the proposal to come forward and state them. If no objections were raised within a given time then Act XXVI. of 1850 was put into force in the town or village requiring the municipality. Under the proposed system it will rest with Government to take the initiative in proposing a municipality where one is deemed to be necessary. Everybody who has had any experience in the mofussil knows how easy it would be to get half-a-dozen people to sign a petition for the creation of a municipality, and consequently under the old system some very unsatisfactory municipalities were created, while in places which absolutely needed such an institution one could not be created because the villagers or townsmen had not taken any steps in the matter. The next point of importance which has been alluded to, both in the newspapers and in this Council, is the matter of grouping villages together for municipal purposes. When the Bill was introduced to the notice of the Council on the first reading, the Honourable the Advocate-General expressed an opinion that it would be very inadvisable to mass a number of villages into one municipality, and I then said that I myself doubted whether the Bill was ever meant to put such a practice into force. I have since been assured by a gentleman who has had much to do with the drafting of this Bill that Government never intended to mass villages together in the way objected to by the Honourable the Advocate-General, but that the only object which it had in view with regard to this point was that it might have power to class together and make into a municipality a few adjoining villages in places where fairs or jattras were in the habit of being held, in order that funds might be raised to meet expenses required for making sanitary arrangements for these gatherings. I have consulted with the Honourable the Advocate-General upon the point, and he suggested that in the fourth section he should alter the words "in the vicinity thereof" to "adjacent thereto." This alteration may appear slight to the Council and I may say that it did not satisfy me. On further enquiry I found that by mistake the words "or any village or lands" had been printed instead of "with any village or lands," and it appears that when that correction is made a good deal of doubt will be cleared up. The next main point which has been canvassed is the division by this Act of municipalities into two descriptions—city municipalities and town municipalities. As the Bill stood when originally drafted, the only difference between a city and a town municipality appeared to consist in the number of official and ex-

officio commissioners to be appointed in each of them, and in the fact that as regards city municipalities, in cases where the Governor in Council considered it advisable, there should be an elective franchise for the appointment of a certain number of non-officials. When the matter came to be discussed in Select Committee there was a general feeling that there should be some sort of limit fixed in order to point out more clearly the difference between the two kinds of municipalities. Accordingly the sixth section was altered and it was provided that no city municipality should be constituted in any municipal district containing less than 4,000 inhabitants, and that no town municipality should be constituted in any municipal district containing less than 800 inhabitants. These figures were not acceded to by all the members of the Select Committee, and I must say that a good deal of difficulty was experienced in arriving at what we considered to be a just and reasonable limit, because as yet the census returns of the districts have not been completed. I have since gone into the matter as far as I possibly could, and from the sources available have gathered returns of the existing municipalities in Surat, Broach, Carwar, Kaladgi, Kanara, Sholapur, Nasik, Ahmedabad, &c. I have also gained what information I could from the Chief Secretary to Government, and the Honourable Colonel Anderson has supplied me with a few statistics with regard to the Satara districts. Satara, however, can scarcely be accepted by the Council as a criterion, because it contains a large number of small municipalities, which were constituted by Sir Bartle Frere when the old Bullootee huks were put a stop to, as it was not wished to do away entirely with previously existing arrangements. I believe it was one of these municipalities which received the benefit of the Honourable the Advocate-General's observations when the Bill was introduced to the Council. I find in the Surat Collectorate there are only four municipalities; in Broach, two; Kaira, five; Belgaum, five; Kaladgi, twelve; Canara, seven; Poona, fifteen; Sholapur, six; Nasik, ten; and Nagar, four. I think it may be taken for granted that the object of Government hitherto has not been to multiply municipalities all over the country, although this seems to be the prevalent idea in the minds of some gentlemen. I was anxious to discover the smallest population which possessed a municipal district outside of Satara, and among the districts I have mentioned I find that there are only two municipalities existing in towns with a population under 16,000 souls. I have come to the conclusion—and my honourable colleagues, Mr. Rogers, Mr. Ravenscroft, and Colonel Anderson agree with me—that the figures which have been agreed to by the Select Committee may fairly be increased, and when the time comes I shall be prepared to move, as far as town municipalities are concerned, that a population of 2,000 should be the lowest limit—that is to say, no municipality shall be introduced in any town where the population is less than 2,000, and that with regard to city municipalities the 4,000 limit may be increased to 10,000. With regard to the appointment of Commissioners, we, after due consideration, arrived at the conclusion that they should not be appointed for life, but for 3 years, with eligibility for re-appointment. This system will enable men to become well acquainted with their work. Some discussion has taken place upon the advisability of making all the conservancy sections applicable both to town and city municipalities, and the Committee came to the conclusion that the Council should insert a section in the Bill, stating that these sections shall be applicable to all city municipalities, but that only such of them should be introduced into towns as the Governor in Council might specially direct. Objection has been taken to the list of taxes from which a municipality may select being entered in the Bill, and the argument has been used against it that its introduction would frighten the people into

believing that every tax mentioned in the list was to be put upon them. I do not think, however, that the people of the Bombay Presidency would be frightened at the introduction of such a section, and therefore it is left in the Bill.

After some further remarks the honourable gentleman moved that the Bill be read a second time.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—Sir,—Although I have no objection to the principle of this Bill, so far as it empowers Government to propose the introduction of municipalities, yet I have a great objection to municipalities being established in towns or villages containing even so small a population as 800 inhabitants. I think there ought to be no municipality in a town or village having for its population less than 4,000 inhabitants, for reasons which I am prepared to submit to the Council. But as the honourable member in charge of the Bill has offered to raise the limit from 800 to 2,000 inhabitants, I feel inclined to meet him half way and agree to the modification, considering that "one bird in the hand is equal to two in the bush"; though I have not still changed my opinion as regards the propriety of limiting the introduction of municipalities to such towns or villages only as contain a population of more than 4,000. If I do not consent to the above modification, which is a sort of compromise, the present limit of a population of 800 might remain in the Bill by a majority of votes, and my countrymen may not get the benefit to accrue to them from this change in the limit which has now been proposed. I shall therefore confine my remarks to the other two principal objections which I have to this Bill—1stly, the curtailment of the powers which the people enjoy under the existing Act for the management of their municipal affairs; and 2ndly, the increase of taxation which the Bill authorizes. I admit that some of the objectionable provisions in the original Bill have been modified by the Select Committee, but I regret to state, with due deference to the opinion of the honourable and learned member in charge of it, that several most objectionable sections still remain in it, which should, I think, be struck out or modified. If these sections remain as they at present stand, and the Bill is passed into law, I cannot understand where the increased liberty which the Bill professes to give to the people is! My honourable friend has stated that to foster a desire for self-government is the first great step towards carrying out the object of this municipal enactment; but I would submit that if this Bill is not modified, the passing of it into law will be the first step towards depriving the people of the liberty which they have been enjoying under the present Municipal Act XXVI. of 1850. Clause 3, Section 8 of the Bill bears me out in this remark. It is as follows:—"In the decision of all questions submitted to the Commissioners the President shall have a casting vote and also a veto, provided that his reasons for such veto be recorded in his own handwriting. It shall also be competent to him to order the dismissal of any municipal stipendiary receiving a stipend of not more than Rs. 300 per mensem, if the Commissioners, after one month's consideration of his reasons in writing for that course, shall in a general meeting have refused to sanction such dismissal. In the case of his so exercising his veto or ordering dismissal, it shall be lawful for the Commissioners to appeal to the Governor in Council, whose decision shall be final." It is a well known fact that the intelligent classes of the people in the mofussil loudly complain that their municipalities are virtually in the power of the Collector, even under the existing Municipal Act, in which no such absolute power has been given to him in his capacity of municipal president. By the present Bill, not only this grievance will remain unredressed, but it will be

Mr. Munguldass objects to certain details in the Bill.

aggravated. Moreover, the existing Act does not necessarily require the appointment of the Collector as the president of all the municipalities in his district, but leaves it open to the choice of the Municipal Commissioners to elect any one they like as president. The present Bill makes the Collectors, Assistants and Deputy Collectors, Presidents, and Vice-Presidents *ex-officio*. The reason why the municipalities are not so popular as they ought to have been, is to be sought in the fact that these institutions are converted into an instrument for burdening the people with excessive local taxation with utter disregard of their capabilities to bear the same. When such is the case there can be no wonder that the people should wish to avoid the introduction of municipalities in their towns and cities. It has been for some years past the universal cry of the mofussil population that trade and commerce are declining; that the industrial classes have become poorer and poorer as there is less demand for the productions of their manufactories than for the cheaper and more attractive articles of European manufacture; that the land assessment is being increased to a large extent; and lastly, to give a finishing stroke to their unfortunate condition, the prices of the necessaries of life are comparatively dearer than what they were when the existing municipal law was passed. Under these circumstances nothing can, in my humble opinion, be a wiser policy for His Excellency's Government to adopt than to refrain from imposing additional burdens on the people. From the statistical information extracted in the *Indu Prakash* of the 29th September 1873, from the statement of the moral and material progress and condition of India placed before the public by the India Office, I find that charge of local taxation in the Presidency of Bombay is as follows:—

Name of Presidency.	Population.	Total amount of Local Taxation.	An average amount of Tax per thousand.
		Rs.	Rs.
Bengal	64,000,000	25,00,000	39 1/16
Bombay	13,250,000	36,75,000	277 19/53
Madras	30,000,000	47,00,000	156 2/3
N. W. Provinces... ...	30,000,000	53,00,000	176 2/3

This statement clearly shows that our Presidency already pays nearly double of what Madras and the North-West Provinces pay, and eight times more than what Bengal does, and the present Bill when passed will greatly increase the percentage. I would briefly indicate some of the objectionable sections. I shall now take the liberty to draw His Excellency's attention to another most objectionable provision, viz., Clause 3, Section 8, of the Bill. I entirely disapprove of the powers of veto and dismissal therein accorded to the president. These are, in my opinion, very absolute and extensive powers, which will tend to make the president more arbitrary in his proceedings and place the municipal servants in unwholesome fear and dread of him. The Commissioners will also be deprived of their present power of carrying out any measure by a majority and will soon cease to take interest in municipal matters. The right of appealing to the Governor in Council reserved to the Commissioners will be practically of no use or benefit. At the sittings of the Select Committee the only reason assigned for making this provision was that a Secretary of the Surat Municipality was considered an unfit man by the Collector and therefore the latter wanted to turn him out, but he could not succeed in removing him, because the Municipal Commissioners would not agree with him; but a paragraph which I shall now read from the speech of the president of the Municipal Committee at Surat is completely at variance

with the statement that the Surat Municipality is inefficient or negligent or partial in performing its duty. The President, Mr. Hope, the energetic Collector of Surat, who has the reputation to be the last person to give undeserved praise to any one, and who is not likely to be easily satisfied, says—"I must now conclude this review of our municipal administration, which I trust has not been wearisome. The year has undoubtedly been one of action and also of experiment. The new Municipality has been on its trial, both in its constitution and its *personnel*. New rules have been worked, and must be admitted to be on the whole a success; new members have been admitted, and all intelligent persons must readily acknowledge the very great assistance which many of them have afforded. And more than this, new principles have been at work. The Native Commissioners have had a far larger share than formerly of the administration, with such manifest success that the whole managing committee, including its chairman, are at present natives, and the non-official element has been allowed so far to preponderate over the official, that some members of the latter have scarcely been called on to give any active assistance during the year. The Municipal Commission is undoubtedly more popular, in the sense of being more in the hands of those who represent the people."—(Bombay Municipal Record, 1868, Supplement No. 1, page 4.) For argument's sake I will suppose that the Secretary was really an inefficient man, but that was only one single instance during a period of twenty years. Is it therefore fair and just that all the municipalities should be made to suffer on such an insufficient ground? The provision will doubtless work mischievously, and I hope that it will be expunged. I shall now state my objection to that portion of Section 25 which imposes an obligation on the municipalities to defray such proportion, not exceeding one-half, of the charges of every description of the police who may be *bonâ fide* employed within the municipal limits for the security of life and property. Those charges ought in fairness and equity to be wholly defrayed by the State, and I am fully borne out in this view even by the Committee of selected Collectors, on whose report this Bill has been framed. They say—"In Chapter IV. the objects to which the municipal funds are applicable have been carefully defined and summarised. Under the head of 'public safety,' provision has been made for the payment of one-half of the charges of the police *bonâ fide* employed in the municipal limits. The committee consider it much to be regretted that a charge of this kind, which has hitherto been borne by the Imperial Treasury, should be thrown upon purely municipal resources, and there are perhaps no weightier reasons for selecting police than many other heads, but they have entered it in the draft in accordance with paragraph 3 of the instructions they received." (*Vide* original Bill, Statement of Objects and Reasons, page 3, paragraph 2.) Similar views are entertained in the Madras Presidency. I will cite here the opinion of the eminent statesman Lord Napier, late Governor of Madras, which was expressed by him before the Legislative Council of Madras on the 8th February 1870:—"There is no duty more plainly incumbent on the State than the protection of the lives and property of the citizens." The Honourable Mr. Arbuthnot, the then executive member of the Council of Madras, also made the following declaration on behalf of Government, at the meeting of the Madras Legislative Council held on the 17th February 1871:—"It is in conformity with the views entertained by the large majority, if not by all the members of the Council, that police ought to be one of the first charges on the general revenues, and it tends to simplify the accounts and estimates of the municipalities. It also substitutes a fixed charge on the general grant for what might be, and probably would be, an

increasing charge, and it is the arrangement which we believe will be most generally acceptable to the ratepayers." This view was carried out, and Madras Municipalities are now free from the burden of police charges. When this one portion of the Indian Empire is exempted from this liability, it is but fair and just that the liability of the Bombay Presidency, which is already heavily taxed for local purposes, should also be removed. As, however, the Municipalities in this Presidency have already been made liable for such contribution by Act I. of 1871, I shall not ask for entire exemption, but submit that the provisions of that Act which enact that demand for police charges shall not exceed one-fifth of the total revenue of any municipality be transferred to this Bill. I will also propose, when the Bill is considered in detail, that a general restrictive clause be inserted in the Bill for the protection of the people from excessive taxation, similar to what has been provided in the Bengal Municipal Act. Even with that restriction His Excellency the Viceroy withheld his assent from the measure, as he feared it might impose heavy burdens upon the people at large, which they were not able to bear easily. With these remarks, I would at present vote for the second reading of the Bill.

The second reading of the Bill was then agreed to.

The Bill read a second time and considered in detail.

The Council then proceeded with the consideration of the Bill in detail.

With regard to the laws repealed, the Honourable Mr. GIBBS said—These laws respectively authorise municipalities to spend a portion of their incomes upon schools, hospitals, and the like, point out how Commissioners are to be appointed, and extend to them the liability to pay for a certain proportion of the police. The six months' limit in this section has been entered in the Bill to suit the provisions of the 19th and 20th sections, in which powers are given for doing away with municipalities which are not considered worth retaining. None of the petitions received by the Government make any suggestions upon this portion of the Bill, and therefore I move that the first section be agreed to.

His Excellency the PRESIDENT suggested that the words "coming into force" should be inserted after "Act" in line 11, and the words "the passing of" deleted.

These alterations were agreed to.

In accordance with a suggestion made by the Honourable the Advocate-General, the Honourable Mr. GIBBS proposed that the words "immediately adjacent thereto" should be substituted for the words "in the vicinity thereof," in line 23 of the Interpretation Section—III.

The Honourable Mr. NARAYAN suggested that the consideration of the interpretation sections should be postponed.

This suggestion was agreed to.

In lines 8 and 9 of Section IV. the words "notify that he believes it to be expedient" were substituted for the word "declare his intention."

The Honourable Mr. NARAYAN said it had been declared that it was not the intention of Government to unite a number of villages or towns, and therefore Section IV. seemed to be inconsistent with that declaration.

The "massing" together of villages not the intention of Government.

The Honourable Mr. ROGERS remarked that the whole of the latter part of the section could not be left out because it was in all the Bengal Acts.

His Excellency the PRESIDENT—We have been informed that Scindia is the patel of Wanowrie, which is close to Poona, and in such a case as that there might be a serious difficulty in uniting Wanowrie to Poona.

The Honourable Colonel ANDERSON—But there are many towns already which are actually composed of a number of little villages. Hubli is two towns, and there are half a dozen villages immediately adjacent thereto.

The Honourable Mr. ROGERS—Near the town of Bulsar there is a little village close to the river side, and it would be absolutely necessary to bring this village within municipal limits, otherwise a large amount of revenue will be lost from goods which are landed at that village for the town.

The Honourable Mr. GIBBS—The Honourable the Advocate-General objects to villages being tied up together, but thinks we must nevertheless have the power to do so under this section.

His Excellency the PRESIDENT thought there could be no harm in leaving the section as it stood.

The Honourable Mr. NARAYAN said it would be dangerous, because by leaving the section unaltered it would allow any Collector to do what he chose.

The Honourable Mr. ROGERS suggested that in line 6 "or" should be struck out, and that before the words "any village" there should be inserted the words "or (with the previous consent of the Governor-General in Council) cantonment, with."

The amendments were agreed to, also the substitution of the word "shall define in the said notification the proposed" for the words "to define the" in line 13.

The Honourable Mr. GIBBS then moved that the first part of the section as amended be agreed to.

The Council divided on the Honourable Mr. Gibbs' amendment :—

Ayes—6.	*Noes*—4.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable A. ROGERS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable J. GIBBS.	The Honourable NARAYAN VASUDEVJEE.
The Honourable Colonel M. K. KENNEDY.	The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable E. W. RAVENSCROFT.	
The Honourable Colonel C. W. ANDERSON.	

—*Carried.*

As to the second clause of Section 4, His Excellency the PRESIDENT said that both the Ahmedabad and the Tanna petitioners thought two months too short a time for the inhabitants to object to the formation of a municipal district.

The Honourable Mr. GIBBS—The time was six weeks in the Bill originally, and the committee thought a longer time than two months would be quite unnecessary.

It was agreed to insert the words "publication of the" before "said" in the fourth line of the clause. In clause 3 the same words were inserted before "said" in the second line of the clause. The clauses were then agreed to, as amended.

Mr. Gibbs moves an increase in the number of population requisite for city and town municipalities.

Regarding Section VI., the Honourable Mr. GIBBS said—In accordance with the intimation which I made in my opening speech, I now beg to move that "10,000" be substituted for "4,000" in line 8, and "2,000" for 800 in line 11.

The Honourable Mr. MUNGULDASS NUTHOOBHOY moved that the proviso of Section 6 be omitted and the following proviso be substituted :—"Provided that no town municipalities shall be constituted in any municipal district containing 10,000 inhabitants and more, and that neither a town nor a city municipality shall be constituted in any municipal district containing less than 4,000 inhabitants." He said—My objection in regard to Section 6 of the Bill is that city municipalities should necessarily be constituted in those towns which contain a population of not less than ten thousand. Such tolerably large and populous towns are expected to have some educated and intelligent men among them, and their municipalities ought without an exception to be city municipalities. I wish to know why such large municipalities should be deprived of their limited self-government, which under the existing law is enjoyed by the most insignificant municipalities whose income is even less than one hundred per annum.

Mr. Munguldass wishes it to be declared that Municipalities must be created in places containing a certain population.

The Honourable Mr. GIBBS said this was a proposal which he must object to, because there were many towns which, though possessing a population of over 10,000, were nevertheless not fit to be made city municipalities. He did not think that the honourable member had any practical knowledge upon the subject, for the result of adopting his amendment would be that an elaborate procedure would be thrust upon certain towns unable to do it justice.

Mr. Gibbs thinks it will be advisable to leave the matter optional with Government.

The Honourable Mr. MUNGULDASS—If the amendment I have proposed is not adopted, it would be optional with the Government to constitute all the municipalities in the whole Presidency as town municipalities only.

The Honourable Mr. GIBBS—The honourable member must surely allow Government to have a little common sense.

His Excellency the PRESIDENT asked if there was any town with a population over 10,000 which was not fit to be a city municipality,

The Honourable Mr. GIBBS said that there were many, and added :—It now occurs to me as an example, and to extend, or make applicable, all the conservancy sections of this Bill to places like that would be absurd. The Bill may be suitably applied to towns like Poona, Ahmedabad, or Surat, but not to a number of other places with a population over 10,000. The honourable member is practically wishing compulsion to be substituted for discretion in the matter of creating municipalities.

The Council divided on the Honourable Mr. Munguldass' amendment :—

Ayes—3.	*Noes*—7.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable A. ROGERS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable J. GIBBS.
	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable GUNPUTRAO TATYA SAHEB PUTWARDHUN.
	The Honourable Colonel W. C. ANDERSON.

The motion was lost.

The Honourable Mr. GIBBS' motion was then agreed to.

Regarding the second clause of the section the Honourable Mr. GIBBS said that it was intended to meet the case of jattras and fairs. At Mhyjee, there were half-a-dozen small villages lying in close proximity to which people resorted during the fair, and by this clause they might be brought together for sanitary purposes.

Referring to Section VII. His Excellency the PRESIDENT said—The Ahmedabad petitioners object to this section. They say that the President of the Municipality ought not necessarily to be the Collector of the district, but should be elected; that neither the Superintendent of Police nor Assistant Superintendent of Police should be members of the Municipality; and that the proportion of non-officials to officials should not be more than one-third. I suppose they mean that one-third should be officials, and the other two-thirds non-officials.

The Honourable Mr. MUNGULDASS took exception to the words "in or near any place," and thought that the distance should be defined.

The Honourable Mr. GIBBS—If a certain distance were laid down, we would be sure to find ourselves in difficulties.

In reply to a question by His Excellency the President, the Honourable Mr. GIBBS said that in a city municipality there would be no difficulty in finding as many non-official persons fit for being members of the municipality as would never be fewer than double the number of officials.

The Honourable Mr. NARAYAN suggested that non-officials should be appointed for a period not exceeding two years instead of five. In all the Acts which had lately been passed by the Government of India, two years was the period that had been agreed upon. In the last Bombay Municipal Act it was the same.

His Excellency the PRESIDENT—We are told by the Revenue authorities that three years would be a suitable period. We are not exactly bound to follow the Bengal Acts, and as for the new Bombay Municipal Act it will only exist for three years unless extended.

The Honourable Colonel ANDERSON—The advantage of a long period of service is that it will save the peace of villages or towns from being disturbed too often.

The Honourable Mr. GIBBS—Moreover, I am told that a too frequent repetition of elections would tend to create a deal of khutput.

The Honourable Mr. MUNGULDASS suggested three years.

After some conversation "three" was substituted for "five" in line 26, and the words "or until their successor shall be appointed" inserted after "years" in the same line.

Regarding the second clause of Section 7, the Honourable Mr. GIBBS said that it was taken entirely from Section VII. of the North-West Provinces and Oudh Municipal Acts.

The Honourable Mr. MUNGULDASS proposed that the section of the Bengal Bill be substituted for this clause, so that no person would be elected a Commissioner unless he was a rate-payer. If a non-official person wished to be selected to be a member of a Municipality, certainly he ought to pay taxes.

The Honourable Mr. GIBBS—The reason why that was not expressly stated in this Bill was because it was considered that no person could be a non-official member of the Municipality without at the same time being a rate-payer.

The Honourable Mr. MUNGULDASS—Those inhabitants of Bombay who do not pay rates are not eligible for election. I would like to see this rule adopted as regards town and city municipalities: otherwise the Collector may secure the selection of a person who has nothing to do with a municipality.

The Honourable Mr. NARAYAN could not approve of the Honourable Mr. Munguldass' amendment, because he was afraid that if it were agreed to the services of some of the best men of the non-official community would be lost to a municipality.

After some conversation, the second clause was permitted to remain unaltered.

The Honourable Mr. MUNGULDASS objected to the words in the third clause, "or be convicted of an offence punishable under the Indian Penal Code." Abusing a servant was, he said, an offence punishable under the Code, and yet for this a Commissioner might be deprived of office.

His Excellency the PRESIDENT—But it is not compulsory on the part of the Governor in Council to turn out a man for a trivial offence of that description. The honourable gentleman will observe that the clause simply says—"The Governor in Council *may* from time to time remove any of the Commissioners," &c.

Regarding the second clause of Section VIII. the Honourable Colonel KENNEDY said—At the end of the second clause we are informed that the president, among other duties, is "generally so to use his influence that the municipal administration may be legal, efficient, and according to the purposes of this Act." I think that these words are unnecessary, especially those about "using his influence."

His Excellency the PRESIDENT concurred.

The Honourable Mr. GIBBS said that the clause was in accordance with the Poona Committee's draft.

Lines 17, 18, 19 and 20 were struck out accordingly.

The veto of the President of a municipality objected to.

His Excellency the PRESIDENT said that the Ahmedabad Association strongly objected to the president having a veto, and generally to the powers of dismissal of Municipal stipendiaries which were vested in him.

The Honourable Mr. GIBBS remarked that it must be borne in mind that the veto was subject to appeal to the Governor in Council.

The Honourable Mr. MUNGULDASS and the Honourable Mr. NARAYAN both supported the objections of the Ahmedabad Association. The latter mentioned that the Chairman of the Corporation in Bombay possessed no such power.

The Honourable Mr. GIBBS said it would be necessary in some cases for the president of a city municipality to possess a veto and he would always be prevented from using his power arbitrarily in consequence of the right of appeal existing.

The Honourable Mr. MUNGULDASS—Natives in the mofussil cannot afford to appeal against the president. If I were in the districts I know that I would think twice before offending a district magistrate (who is to be the president) by appealing against him to Government, especially now that I have read the new Criminal Procedure Code.

The Honourable Mr. RAVENSCROFT did not think the Honourable Mr. Munguldass was justified in making such insinuations against magistrates.

The Honourable Mr. GIBBS—If all up-country municipalities were in the same position as the Bombay Municipality I would agree with the Honourable Mr. Munguldass, but seeing that they are so very different I must still think that in certain circumstances a veto is absolutely necessary.

The Honourable Mr. NARAYAN—The difference between the Bombay Municipality and mofussil municipalities is precisely a reason, it seems to me, why this power of veto in the case of the latter should not be allowed to exist. In Bombay there is public opinion and the press, in the mofussil the voice of the people is seldom heard.

The Honourable Mr. MUNGULDASS—By such a section as this the Collector has power to stop every proceeding which does not please him until an answer to an appeal to Government is received.

The Honourable Mr. GIBBS—If it will meet the wishes of the honourable members, we might agree to these words—" In case of the president so exercising his veto or ordering dismissal, he shall at once forward his decision and the extract of the proceedings to the Governor in Council, whose decision shall be final."

The Honourable Mr. MUNGULDASS said that that would make no difference.

The Honourable Mr. NARAYAN observed that in the North-West Provinces Municipal Act there was no such power vested in the president, the chairman simply possessing a casting vote.

The Honourable Colonel KENNEDY enquired whether there was any such power in the existing Municipal Act, and on the

The Honourable Mr. MUNGULDASS answering in the negative,

The Honourable Mr. GIBBS said that he was informed that such a power does exist in the bye-laws, and to show how necessary it was, he might say that he remembered hearing of one municipality voting the whole of its proceeds for the building of a bathing-place.

The Honourable Mr. NARAYAN—If the honourable gentleman takes such extreme arguments as these, it would be easy to argue that some of the Collectors might be extremely unreasonable—might do anything, in fact, to carry out their crotchets. But we are not here to legislate for such isolated instances.

The Honourable Mr. MUNGULDASS observed that in the Punjaub Municipalities Bill there was no such power given to the President.

The Honourable Mr. GIBBS said that he was instructed by competent Revenue authorities that this power was absolutely necessary, and therefore he would ask His Excellency to put the matter to the Council.

The Honourable Mr. MUNGULDASS—Then I beg to move that the section be struck out.

The Honourable Colonel KENNEDY—Considering the status and influence of the Collector in the districts, I do not think the power of veto is absolutely necessary.

The Honourable Mr. GIBBS—The Chairman of the Callian Municipality says that the veto is likely to cause dissatisfaction, but all he thinks it necessary to suggest is that whenever the president gives his veto he shall at once forward the case to Government.

The Honourable Mr. NARAYAN—In constituting the municipality almost every official of any influence in the municipal district is put in. Naturally, all these persons will be anxious to do everything they can to make themselves agreeable to the Collector. But

not content with this, the right of veto is given to the president, and thus the appointment of non-officials is rendered quite unnecessary, for in every case where these people disagree with him he will be sure to exercise his right of veto. I have known instances in Bombay where the Commissioner insisted upon having his own way. So long as things were agreeable to him the Commissioner was pleasant enough, but when things took a turn opposed to his view he raised objections—insisting upon there not being a sufficient quorum present, and so forth. With an absolute power of veto given here to the chairman, the system of self-government which has been talked about for the citizens of the mofussil may become a perfect farce.

The Honourable Mr. GIBBS—We here propose that there should be in a municipality twenty-four persons in all—sixteen non-officials and eight officials. Thus if there were not some power of veto given to the chairman the opinion of the official members might be swamped altogether by sheer force of numbers. In the case of a vote being carried by a majority of one or two—a vote which the president feels convinced will if carried into effect hurt the municipality—I think it would be extremely advantageous if he were to veto the vote and refer the matter to Government. If the non-official and official elements in a municipality were to be nearly equal, I could agree with the sentiments expressed by the Honourable Messrs. Narayan and Munguldass, but as the non-officials may easily out-vote the others we must provide the president with this power.

The Honourable Colonel ANDERSON—I think the honourable members might agree to this compromise, that where a motion is carried against a minority of not less than two-fifths of the number of those present the president shall have the right of veto.

His Excellency the PRESIDENT—Under such circumstances he might at all events have the right to suspend proceedings.

The Honourable Mr. NARAYAN had no objection to action being suspended, pending a reference to Government.

The Honourable Mr. GIBBS had no objection to the clause being altered in the manner indicated.

In line 24 the words "also a veto" were struck out and the following words substituted:—

The power of veto modified.

"the power of suspending the operation of any resolution which may be carried against a minority of the Commissioners being not less than two-fifths of those who may have voted on the motion and of referring the matter forthwith for the orders of the Governor in Council, whose decision shall be final."

The Honourable Mr. RAVENSCROFT thought that the remainder of the section now became unnecessary.

The remainder of the section was accordingly struck out.

Regarding Section IX., the Honourable Mr. NARAYAN said that according to the N. W. Provinces Bill the number of *ex-officio* members of a municipality should not exceed more than one-third of the whole members of the corporation, but here half of the corporation may be composed of Government officials.

The Honourable Colonel KENNEDY thought it would be as well to leave this section alone, because in town municipalities he believed there would always be a difficulty in getting as many good men as two-thirds of a municipality from among the non-official element of the district.

The Honourable Mr. ROGERS said that there must be a decided distinction drawn between city and town municipalities.

The Honourable Mr. GIBBS—Practically, the non-officials in each town municipality will always be more than one-half, because the Collector cannot always be present at its meetings, and we have provided that his place as president shall be taken by the Assistant or the Deputy Collector.

The Honourable Mr. NARAYAN—If there are to be fewer officials than the number which is stated here, then why not expressly say so? The Central Provinces Act states that the number of official members should not exceed two-fifths. Why not say at once that Government is not willing to concede the principle of self-government to mofussil municipalities?

The Honourable Mr. ROGERS—Certainly self-government to its fullest extent must not be conceded in the case of these small municipalities.

The Honourable Colonel ANDERSON agreed with the Honourable Mr. Rogers.

The Honourable Mr. GIBBS—We say in the section that "not more than one-half of the whole number of Commissioners shall be persons holding salaried offices in the service of Government. It will thus be seen that it does not at all follow that half of the number of the members of the municipality shall be Government officials, in the ordinary acceptation of that term, because a portion of the six may be the school-master, the village apothecary, or the patel or coolkurnie—a very useful description of people. Schoolmasters in mofussil villages are generally persons of some importance, because by being newspaper correspondents they to a certain extent guide the public opinion of the place.

The Honourable Mr. NARAYAN moved the substitution of one-third for one-half in line 19.

The Honourable Colonel ANDERSON hoped it would be remembered that in experiments of this description the principle of self-government could only be conceded under very strong checks.

The Council divided on the Honourable Mr. Narayan's amendment :—

Ayes—4.	*Noes*—6.
The Honourable MUNGULDASS NUTHOOBHOY.	His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable A. ROGERS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable J. GIBBS.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	The Honourable Colonel M. K. KENNEDY.
	The Honourable E. W. RAVENSCROFT.
	The Honourable Colonel W. C. ANDERSON.

The amendment was lost.

The Honourable Mr. NARAYAN observed that in the third clause it was provided that the Governor in Council may remove any of the non-official Commissioners. This seemed to him to be rather arbitrary.

The Honourable Mr. GIBBS said that that was the law at present.

The Honourable Mr. NARAYAN—That may be, but in reading this section I wonder what good is expected by introducing this Bill at all. The whole thing appears to me to be a perfect farce. I would rather see a Municipal Commissioner appointed at once and

made responsible only to the Collector. This section provides for the appointment of a number of Commissioners but gives them no actual power. They are swamped by an official majority, then the president is given a right of veto, and again the Governor in Council may remove any non-official Commissioner " as may seem to him fit."

The Honourable Mr. GIBBS—This section contains the very essence of the Government of India's policy regarding not only small municipalities but even the acts of Presidential Governments, for although His Excellency the Governor in Council here may pass a Bill, the Viceroy has full power to veto it.

The Honourable Mr. ROGERS—Practically the Government will never interfere with non-official Commissioners in the small town municipalities.

After some further discussion the matter dropped.

In line 25 " three " was substituted for " five," and the words " or until their successors shall have been appointed " inserted after " years."

In line 22 of Section X. the words " or more " were inserted after " one."

In line 28 of Section XI. " may " was substituted for " shall."

In line 2 of Section XII. the words " or chairman " were inserted after " Vice-President."

In line 18 of Section XIII. " gross " was inserted before " neglect."

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,
JOHN NUGENT,
Acting Under-Secretary to Government.

Poona, 2nd October 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Friday, the 3rd October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governo of Bombay, *Presiding.*

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

The District Municipal Bill considered in detail.

The Council proceeded with the consideration of the District Municipal Bill in detail.

Regarding Section 17, the Honourable Mr. GIBBS said that it did not in any way alter the title, and its meaning was simply that lands transferred to the Municipality shall vest. This Council, he observed, had no power to give them away, because it was imperial property which was concerned.

On the suggestion of the Honourable Mr. NARAYAN, "shall" was substituted for "may" in line 15 of Section 20.

Regarding Section 21 the Honourable Mr. GIBBS said—This is a section which was discussed a good deal in the Select Committee, and the Native members strongly objected to it. The real question at issue is whether this list of taxes at present inserted in the section should be so inserted, so that the different municipalities may choose from it what taxes they please. I consider it is a good thing to have this list, but I believe that the Honourable Mr. Narayan and the Honourable Mr. Munguldass are of a different opinion, thinking that the people in the Bombay Presidency are likely to be frightened by finding such a list in the Act. This was the only reason why it was not included in the Central Provinces Municipality Act. But that must not be considered an example for the guidance of Bombay, because the circumstances of the Central Provinces and Bombay Presidency are very different as regards municipalities. In the former, municipalities had not been generally in force up to the time of the introduction of the Bill, whereas the people of this Presidency have long enjoyed Act XXVI. of 1850, and from their familiarity with municipalities, are not likely to be frightened by the appearance of this list in any new Act. A list like this has this benefit, that it prevents any Municipality from imposing some absurd tax which could not possibly be approved by Government. It has been suggested that instead of inserting this list in the Act, it would be preferable to circulate it independently

Mr. Gibbs approves of the insertion in the Bill of a list of taxes from which Municipalities may select the particular tax or taxes which they deem may suit their circumstances best.

in the villages, but my own opinion is that it would be the wiser plan to retain it in the Act, so that it may guide the people.

The Honourable Mr. MUNGULDASS thought that the item "g"—(any other tax, toll, or impost of special local expedience or in accordance with special local usage)—ought certainly to be struck out; while the Honourable Mr. NARAYAN was of opinion that the words "or for general purposes" in paragraph "e" should be expunged, because practically this would lead to an income tax.

His Excellency the PRESIDENT observed that he knew that the idea of an income tax as a source of municipal revenue had been mooted ere this.

The Honourable Mr. NARAYAN thought that the general complaint just now was that taxes did not at present reach the wealthy classes whilst the poor villagers were heavily taxed.

His Excellency the PRESIDENT said that as far as he could judge, an income tax would work quite fairly and cause no harm, because the area of the incidence of taxation seemed at present to be so limited. He added that from a letter sent by the Government of India, the Council has had the pleasure of learning that the income tax was better worked in Bombay than anywhere else in India.

The Honourable Mr. MUNGULDASS said that so far as his present information went he had no objection to the list being inserted in the Act, provided it be amended by striking out item "g." The list may really, as the Honourable Mr. Gibbs says, prove a guide to the people.

Mr. Rogers thinks, if the list is to be agreed to, a "shop-tax" should be introduced in it.

The Honourable Mr. ROGERS observed that paragraph "a" mentioned a tax on houses, buildings, and lands, but he wished shops also to be included. A shop-tax was at present very often levied in the Deccan and other parts of the country.

His Excellency the PRESIDENT having enquired whether a man should be made to pay upon his shop and his profession too,

The Honourable Mr. ROGERS replied that it was possible to have a tax upon shops without that becoming a tax upon trades.

The Honourable Mr. GIBBS having observed that a shop must come under the head "building,"

The Honourable Mr. ROGERS explained that a shop might be only part of a building, or might not be a building at all, but a tent.

The Honourable Mr. GIBBS was afraid that if this was agreed to, people who had shops might be taxed both upon their shops and trades.

The Honourable Mr. ROGERS remarked that the practice was in force now, and that in Guzerat there was a tax which was well-known as the "shop-tax."

The Honourable Colonel ANDERSON observed that both shop and trade taxes were familiar to Native Governments. Suppose that a man were to tie his pocket handkerchief upon some sticks and sell pan-soparee under it, he would certainly be keeping a shop which could not be called a building.

The Honourable Mr. MUNGULDASS said that in that case that man would come under the tax on professions or trades.

It was agreed not to make the alteration suggested by the Honourable Mr. Rogers.

The Honourable Mr. NARAYAN reminded the Council of his objection to the words "for general purposes."

His Excellency the PRESIDENT having observed that this would only be a poll-tax upon the head of the house,

The Honourable Mr. MUNGULDASS said that there was no such tax in existence now.

The Honourable Mr. GIBBS said it was common enough in the Peishwa's time.

The Honourable Mr. MUNGULDASS observed that under British rule such a tax did not exist.

The Honourable Mr. NARAYAN remarked that such a tax upon the house was for service rendered, and asked why it should be imposed "for general purposes" ?

The Honourable Mr. GIBBS said that people did not require to use any of these taxes unless they pleased. If a Municipality choosed to have a poll tax, why should they not be allowed to adopt it ? Remarks had been made upon the number of taxes in the list, but Colonel Anderson has stated that he once had to report upon the taxes in a certain part of the country, and he found no less than 147, all coming down from the Satara Rajahs.

Mr. Gibbs objects to any modification of the list, and thinks it would be preferable to abandon the list altogether.

The Honourable Mr. NARAYAN thought that under British administration it would not be right to levy so many taxes.

His Excellency the PRESIDENT was of opinion that the Municipality should be allowed to choose any two of the taxes upon houses, services, and for general purposes, but not the whole of them.

The Honourable Mr. NARAYAN and the Honourable Mr. MUNGULDASS approved of His Excellency's suggestion.

The Honourable Mr. GIBBS said that he had been twenty-seven years in the country, and his personal experience did not lead him to the conclusion that it would be advisable to place any limit upon the number of taxes. If the Council were to interfere in any way with this list, he would rather that it should be left out altogether.

His Excellency the PRESIDENT had no objections to this.

The list abandoned.

The whole section was accordingly struck out.

Regarding Section 25, the Honourable Mr. MUNGULDASS said that in this section he would like a clause inserted similar to what was contained in the Bengal Act, regarding the limitation of expenditure upon the police. But as some difficulties had been pointed out to him in the matter of obtaining police returns, he was willing to reserve his amendment.

The Honourable Mr. GIBBS—The honourable member wishes to introduce a section from the proposed Bengal Act which the Governor General has vetoed. That section, if I mistake not, declared that the expenditure per annum for the police should not exceed Rs. 300 per thousand of the population. I have told the honourable member that it is at present doubtful whether the expenditure for the police is not less than what is mentioned in the vetoed Act. I have obtained some returns upon the subject, but they are not full enough to enable us to come to a conclusion.

The Honourable Mr. MUNGULDASS said that he was quite willing to reserve his amendment until the information was forthcoming.

Expenditure of Municipal funds on "primary education" not to be compulsory.

The Honourable Mr. GIBBS observed that there was a good deal of objection taken to the expenditure of municipal funds on "primary education" being made obligatory, and, partly guided by the policy which had been indicated in the matter by the Supreme Government, he was willing that the clause regarding "primary education" should be left out.

The Honourable Colonel KENNEDY thought that primary education ought to be made compulsory.

The Honourable Mr. ROGERS mentioned that in Khandesh at present a number of municipalities throughout the district contribute already towards the support of a particular school at Dhulia.

The Honourable Mr. GIBBS—I find that Bombay Act II. of 1862 provides that municipal funds shall be applied to "defraying of such proportion of the cost of the construction, support, and maintenance of schools within municipal limits as may be thought fit." Perhaps we might accept the principle here laid down.

After a short discussion, paragraph 1, under the heading "Public Instruction," was struck out, and the following sentence substituted :—

"Defraying such proportion of the cost of the construction, support, and maintenance of any schools or colleges within the municipal limits as the municipality may think fit."

In line 69, Clause 2, the words "with the consent of the Governor General" were inserted after the word "sell."

The whole section was then agreed to.

The Honourable Mr. GIBBS pointed out that the majority of the clauses under the heading "General Conservancy" had been taken from the Bombay Municipal Act.

Section 33 was about to be agreed to, when

The Honourable Mr. NARAYAN interposed—We are now sitting in Committee upon this Bill, and I maintain that we ought to have a little time to consider each of these sections which are now being hurried over. We ought not to skim over the whole Bill, and I submit to His Excellency that this is entirely a new mode of procedure which is being adopted now.

His Excellency the PRESIDENT—The honourable gentleman was a member of the General Committee when the new Bombay Municipal Act was discussed, and he will remember that all the conservancy sections were most carefully considered.

The Honourable Mr. NARAYAN—Then we were legislating for a large city, but it is doubtful whether the whole of the stringent provisions considered to be requisite for Bombay are also necessary for the small mofussil municipalities.

The Honourable Mr. ROGERS remarked that these sections were first drafted for the Mofussil Bill, and afterwards put into the Bombay Municipal Act.

Referring to Section 43, the Honourable Mr. NARAYAN said that he knew many streets in mofussil towns where the roofs abutted upon the streets.

His Excellency the PRESIDENT observed that one of the greatest faults of Indian houses was their tendency to get into the middle of the roadways.

The Honourable Mr. NARAYAN thought that the same description of houses would be found everywhere in the mofussil.

His Excellency the PRESIDENT said that the practice then was unlawful.

The Honourable Mr. NARAYAN—If no municipalities have existed in a number of these towns, the practice can scarcely be called unlawful.

His Excellency the PRESIDENT—It is unlawful in its origin, because it is an encroachment upon public right. The honourable gentleman evidently means that people who do such things have a prescriptive right to do so.

No alteration was made in the section.

In line 15 of Section 54 "shall" was substituted for "may."

Adverting to Section 55, His Excellency the PRESIDENT thought that allowing water to run on the street without the permission in writing of the Municipality, should not be made liable to a penalty.

The Honourable Mr. ROGERS contended that one of the most annoying things in walking through a mofussil town was the danger of being drenched by water—it might be soiled bath-water—from some house adjoining the road.

The Honourable Mr. MUNGULDASS agreed with His Excellency and said it would be sure to cause a great deal of hardship if so trivial a matter were made punishable.

The Honourable Mr. ROGERS thought the matter was not a trivial one, as any one accustomed to the manners of mofussil towns could not but be aware.

After some conversation, the words "or allows or causes any water to run on the street" were struck out, and the section was agreed to.

In line 7 of Section 59, the words "persons residing" were inserted after the word "those," and the section was agreed to.

Referring to Section 63, the Honourable Mr. NARAYAN objected to people being made liable to be called upon to fill up quarry holes which "might appear to the Municipality to be likely to prove injurious to the health of the neighourhood."

The Honourable Mr. MUNGULDASS supported the honourable member, and mentioned that when Dr. Hewlett wished the Byculla Flats in Bombay to be filled up, the proprietors said they would rather give up their land for nothing than undertake such a duty. If that took place in Bombay, surely the inhabitants of mofussil towns could still less afford to fill up holes.

The section was agreed to without amendment.

In line 5 of Section 64 the words "stores or" were inserted before "uses," and in lines 7 and 8 the words "in fields, gardens, or lime or brick-kilns" were struck out.

On the suggestion of the Honourable Colonel KENNEDY, the words "so as to obstruct the public traffic thereon" were inserted before "or" in Section 65.

Section 67 being already provided for by the Burials Act, was struck out.

Regarding Section 68, the Honourable Mr. NARAYAN said that the intention of this section in the Bombay Municipal Act was to drive people into using Municipal markets so as to make them pay, but surely the Council did not want to give such a power for the mofussil.

In line 5 the words " animals or commodities " were struck out, and the words " the sale of animals, meat, fish, and vegetables " substituted, and the section was then agreed to.

In line 7 of Section 73 the words " of the dead and" were struck out.

Consideration of Section 76 regarding penalties was postponed.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,
JOHN NUGENT,
Acting Under-Secretary to Government.

Poona, 3rd October 1873.

Abstract of the Proceedings of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861.

The Council met at Poona on Saturday, the 4th October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding*.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

The District Municipal Bill considered in detail.

The Council proceeded with the consideration of the District Municipal Bill in detail.

Mr. Narayan desires Municipalities to be allowed to adopt the conservancy and building sections at their discretion.

The Honourable Mr. NARAYAN brought to the notice of the Council the objections taken to several of the conservancy sections which were passed on the previous day. In the Bill for the North-Western Provinces he observed that the building and conservancy clauses in the Bill now before the Council had been omitted.

His Excellency the PRESIDENT—We have made these compulsory sections applicable only to city municipalities, and, regarding town municipalities, have made them applicable only at the discretion of the Governor in Council. Thus we have gone a long way in meeting the views of the Ahmedabad Association.

The Honourable Mr. GIBBS observed that the Ahmedabad Association's petition was considered clause by clause by the Select Committee.

The Honourable Mr. NARAYAN said that the question of taxation had been left to the discretion of the several municipalities, and he thought the municipalities might be allowed to say whether they would adopt these conservancy and building clauses. The Government of India had already adopted this principle in the North-West Provinces Bill.

The Honourable Mr. GIBBS—The Government of India has agreed to these sections as regards Bombay town and island, and since the chief Revenue officers of this Presidency have considered that such sections cannot but be beneficial for the municipalities of the mofussil, I am sure the Government of India will not raise any objections. If we were to leave these matters to be regulated simply by rules, the mofussilites would have no protection, because a sharp Collector might insert in these rules something whose existence they would not be aware of until the Collector put it into operation. Here, however, we have the advantage of everything being explained openly in sections.

The Honourable Mr. ROGERS said that to show the danger of leaving municipalities to adopt these conservancy sections at their pleasure, he would mention that when Act XXVI. of 1850 came to be generally introduced, Government took the trouble to draw up a set of rules which municipalities might adopt, but he was informed that not a single municipality had yet availed themselves of these rules in their entirety.

"Municipality" was substituted for "Commissioner" wherever it occurred in Section 69, and on the suggestion of the Honourable Mr. Narayan the words "as hereinafter provided" were struck out of the last line of the section and the word "either by instalments or in one sum as to the municipality may seem fit," substituted.

The Honourable Mr. NARAYAN considered it advisable to adopt from the Bombay Municipal Act the two protective clauses allowing an occupier in default of owner to execute works and deduct expenses from his rent, and laying down the procedure to be adopted if an occupier opposes the execution of the requisite work.

The Honourable Mr. GIBBS had no objections.

Sections 283 and 284 of the Bombay Municipal Act of 1872 were inserted after Section 79.

Regarding Section 88, the Honourable Mr. MUNGULDASS suggested that the budget should only be allowed to be varied or altered at a special general meeting called for the purpose, because the Council had already agreed to give powers by which certain things might be agreed to by the circulation of papers, and he did not think the Budget should be made liable to suffer by such a process.

Budgets to be amended only at a special meeting for the purpose of the Municipality.

The Council concurred, and the following words were inserted at the end of line 34 :— "at a special general meeting to be called for the purpose." The section was then agreed to.

Adverting to Section 91, the Honourable Mr. NARAYAN remarked that it was a "bludgeon clause."

The Honourable Mr. GIBBS said that it was precisely the law as it stood at present.

The Honourable Mr. MUNGULDASS—I think the Council will agree with me that insignificant municipalities in the mofussil should not be called upon to do more than the Bombay Municipality. Therefore I think we ought to adopt here the language contained in the "bludgeon clause" of the Bombay Municipal Act, which was only agreed to after much discussion by this Council.

Section 91 designated a "bludgeon clause" and objected to chiefly in respect of holding Municipal Commissioners personally responsible.

The Honourable Mr. NARAYAN said that the Council had given very little power to the members of municipalities, and that it would be unfair to hold them personally liable.

The Honourable Mr. MUNGULDASS proposed that the wording of the Bombay Municipal Act, Sections 40 and 41, should be adopted in preference to the section before the Council.

The Honourable Mr. NARAYAN—In this section a municipality is made responsible if in the opinion of the Governor in Council it has neglected to do something "emergently necessary for the public health or safety," and yet under "public health" the construction of lunatic asylums and hospitals is already included.

His Excellency the PRESIDENT—But these are not "emergently necessary." I think these words tie us up more than we are tied up by the Bombay Municipal Act. We have no right to act under this section unless we can show that there is some epidemic impending. In the Bombay Act we have power to sequester the municipal fund in the hands of the bankers of the Corporation, in the event of an order by Government not being carried out; but according to this section Government cannot recover money expended by Government on behalf of a municipality except through a Civil Court.

The Honourable Mr. NARAYAN—I think the words "emergently necessary" are too vague. It may be considered to be emergently necessary to drain a whole city, whether it can afford to do it or not, as is the case with Bombay at present. Moreover, why should we seek to hold Municipal Commissioners personally responsible? We have already given the Presidents of municipalities a power of veto, and nevertheless we make the unfortunate Municipal Commissioners personally responsible! This places a man in a worse position than if he were a shareholder in an unlimited liability company.

The Honourable Mr. GIBBS hoped to meet the views of the honourable members by the following amendments:—that in lines, 31, 32, and 33 the following words should be omitted: "Commissioners composing the municipality or any one of them. The said Commissioners"; and that the following words should be substituted: "Municipality. The said municipality"; that in lines 39 and 40, the words "but not the costs of any such suit as aforesaid" should be omitted; and that the first clause of the section should terminate with "Council" in line 43; and that the words "or primary instruction" should be struck out from lines 52 and 53.

The section amended.

These amendments were agreed to.

Section 97 was struck out because it was considered to be unnecessary.

In line 5 of Section 98 "wrongful" was struck out, and the section was agreed to.

The Council then reverted to the consideration of Section 76.

After some discussion the maximum of the various penalties was reduced. The first clause of the section originally stood thus:—

"Sections XXXIV., XXXIX., XL., XLIII., XIV., XLV., XLVI., XLVIII., XLIX., L., LI., LII., LIV., LV., LVI., LVII., LIX., LXIV., LXV., LXVIII., LXIX., fine not exceeding Rs. 50."

"Section LXII., fine not exceeding Rs. 100."

"Sections XXX., LXVII., LXXI., fine not exceeding Rs. 200."

Amended as follow:—

"Sections XXXIII., XXXVIII., XXXIX., XLII., XLV., XLVII., XLVIII., XLIX., L., LI., LIII., LIV., LV., LVI., LVIII., LXIII., LXIV., LXVI., LXVII., fine not exceeding Rs. 25."

"Section LXI., fine not exceeding Rs. 50.

"Section XXIX., LXIX., fine not exceeding Rs. 100."

In the second clause of the section, the penalty attached to Section LXXI. was increased from twenty to thirty rupees.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Poona, 4th October 1873. Acting Under-Secretary to Government.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Monday, the 6th October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable Colonel M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Honourable Colonel W. C. ANDERSON.

Amendment proposed before the third reading of the Road Tolls Bill.

The Honourable Colonel KENNEDY, before moving the third reading of Bill No. VI. of 1873—a Bill for enabling Government to levy Tolls on Public Roads and Bridges in the Presidency of Bombay—proposed an amendment upon Section II. The amendment, he said, had received the approval of the Honourable the Advocate-General, and he (the Honourable Colonel Kennedy) had no doubt the Council would agree to it. It was that lines 7, 8, 9, 10 and 11 should be omitted, and the following words substituted :—" levied within the Presidency of Bombay upon any public roads or bridges (from whatever funds the same may have been constructed) between the said 30th day of July 1864 and the coming into operation of this Act shall be deemed to have been levied under the provisions of Act XV. of 1864 and to have been duly and lawfully levied and collected." This amendment was intended to make the Bill apply both to the past and prospectively.

The amendment was agreed to.

The Honourable Mr. ROGERS—Sir,—I would like to say a few words with reference to this Bill, in order to remove certain misapprehensions which appear to be entertained regarding it. I have been told by a number of gentlemen that an impression has got abroad that in consequence of this Bill any person walking along a public road or across a bridge would be followed by a Government officer and made to pay three pies. Anything more absurd than this idea could hardly be imagined. It was said several times during the discussions upon this Bill, and it seems to be necessary to repeat it now, that this has been the state of the law for a number of years past. The three-pie toll has never yet been acted upon, and I need scarcely repeat on behalf of Government that there is not the slightest intention of using this power unless under circumstances of the greatest necessity. These circumstances may arise occasionally—such as the building of a bridge in a place like Nasik—and then the toll would be employed to repay Government for the outlay. I have already given an assurance upon the part of the Executive Government

that there is no intention of levying the tolls excepting under circumstances of the greatest necessity, and I am sorry to have to repeat the assurance. I cannot exempt even the European Press in Bombay from the charge of spreading the rumour that the intention of Government is to levy the toll forthwith upon every road and bridge. I hope that now, at all events, when the assurance has been thus prominently given that Government does not intend to interfere with foot passengers any more than hitherto, the false impression which has been spread abroad will be removed. I trust that my honourable friends the Native members of Council will do all they can to disabuse their countrymen of this mistaken impression.

The Honourable Mr. BYTHELL asked the Honourable Colonel Kennedy upon what principle tolls were now levied. In some districts of the Presidency they appeared to him to be much more plentiful than in others.

The Honourable Colonel KENNEDY replied that the guiding principle was, as he had formerly stated, that there should be a toll bar on each day's journey of a bullock cart. Of course the length of that journey would vary according to the character of the country traversed.

His Excellency the PRESIDENT—I think that the three-pie toll remains in the Bill mainly for the interest of local funds, and as far as Government is concerned it need not have been mentioned in the Bill at all. Even if it became necessary for Government to enter into some large undertaking—such as the building of a great bridge—my own impression is that the tolls on foot passengers would more properly be levied under a new and separate Act. Such a toll is already levied at Khandalla and Matheran, and it is to legalise it in such places that we retain it in this Bill.

The Honourable Mr. GIBBS remarked that already the schedule in the Bill was, except the reductions, the same as the law all over India.

The Honourable Colonel KENNEDY concurred with the Honourable Mr. Gibbs. He then moved the third reading of the Bill.

Road Tolls Bill read a third time and passed.

The motion was agreed to, and His Excellency the President declared the Bill to be read a third time and passed.

Petitions anent the Salt Bill.

The following petitions, &c., relating to the Salt Bill were afterwards presented to the Council:—

I. Report of the Select Committee on the "Bombay Salt Bill."

II. Petitions relating to the Salt Bill—

1. Petition from Krishnajee Babun Bhoera and eighty others of Matoonga.
2. Petition from the proprietors of salt works in Taluka Penn.
3. Petition from certain dealers in salt at Penn.
4. Petition from Abdool Gufur wulud Mynoodeen and 249 others of Oorun.
5. Petition from Mr. Byramjee Jejeebhoy and 3,500 other persons engaged in the manufacture of salt and in the salt trade generally, &c.
6. Letter from the Bhewandy Survajanik Subha.

The Honourable Mr. ROGERS, in moving the second reading of the Salt Bill, said—Sir,

Mr. Rogers moves the second reading of the Salt Bill.

I beg to move the second reading of Bill No. V. of 1873. As I mentioned just now with regard to the Tolls Bill, this Bill has been very much canvassed by the public, and

I think I can safely say that even a greater amount of misrepresentation than was made about the Tolls Bill has been made about this one. From the very first it has been plain to any person who has read the Bill, and read the discussions regarding it in this Council, that the sole object of Government in bringing forward the measure is to prevent smuggling. We have had no idea of interfering with any person's vested rights, and those sections which appear to give Government the power of interfering with such rights are simple repetitions of the law which now exists with regard to small salt works which on an average of three years do not produce more than 5,000 maunds of salt. With regard to other large works being closed, ample provision has been made for granting compensation to owners. The report of the Select Committee which has just been presented will show that every objection that has been made in the various petitions which have now been presented to the Council has been most carefully and conscientiously considered. Many of the sections objected to have been very considerably modified, and whether the modifications are sufficient or not will be shown when this Council goes into committee upon the details of the Bill. If honourable members can bring forward anything in the course of the discussion to show that more power has been given to Government than is necessary for the purpose of preventing smuggling, I have no doubt that the Executive Government will be happy to make concessions so far as may be consistent with the object it has in view. Before concluding, I may take up a few of the points which were objected to by the minority in the Select Committee, and I hope to be able to explain that even the honourable gentlemen who composed that minority have been the victims of misapprehensions. Their first objection is with regard to Section 22 of the amended Bill. They say—"While this authorizes the issues of licenses for the manufacture of salt, it at the same time makes such licenses subject to further conditions as the Governor in Council 'may from time to time prescribe.' This virtually extinguishes the proprietary rights which some of the owners have acquired under a kowl or lease from the British Government or their predecessors and reduces them to the status of a mere distillery license-holder." I have not seen any of these kowls or leases which are referred to, but I believe that if they are examined they will be found to refer not to any right of manufacturing salt hereditarily, but to the payment of a ground rent upon the land upon which this salt is manufactured. If that should not be altogether the case in each instance, and if we find that rights exist under these kowls or leases of which we are not at present aware, I can safely say on the part of the Executive Government that there is no intention to interfere with those vested interests. When we go into the details of the Bill we may be able to devise a section by which any danger to these true vested interests may be obviated. Section 22, while giving the Collector of the Salt Revenue power to grant licenses, also reserves to him the power to call for any such license and to amend it; and this, I should think, would be sufficient to preserve the interests of kowl-holders by giving them an opportunity of altering their licenses as circumstances may require. The next objection which the Honourable Sir Jamsetjee and the Honourable Mr. Narayan make is regarding Section 24. This section has been a great deal discussed in the public prints, and it is one regarding which a very great deal of misapprehension exists, but the real object for calling upon the licensees to furnish the list of those they mean to employ is not to serve any purpose of Government, but is really intended for the protection of the licencees themselves. The meaning of the section is simply that these licensees may furnish to the Collector, for their own purposes, a list of those persons who they consider should be permitted to enter within the limits of their salt works. As the Bill stood the Customs' officer had power to exclude from any

salt work any person unless his name were mentioned in the list, and that was the object of Government in calling for the list. One of the objections which were strongly urged against this section was, that persons whom a salt manufacturer might employ would not be known by him at the beginning of the year, and that therefore it would be quite impossible to prepare an accurate list. That argument was taken into consideration by the Select Committee, and we modified the section in such a way that the list should only apply to those persons whom the salt manufacturer intended to employ permanently throughout the year. There is also an express provision in the Bill as it now stands which will allow a licensee at any time he wishes to bring into his manufactory any labourers requisite in excess of the number usually employed, and to do this the list need not be amended at all. Altogether, I think that as the section now stands there is nothing whatever in it which can interfere with the proper working of his pans by a licensee; but, nevertheless, if in the course of the discussions any honourable member can suggest any other plan which will do away with any difficulties supposed to remain I have no doubt the Council will be glad to adopt it. I would only repeat that Government has no object in getting this list for its own purposes; Government simply desired it for the convenience of salt manufacturers themselves. The next objection taken by the minority is with reference to Sections 29 and 30. They say—"We quite agree that the proprietor of a salt work or his agent should be held responsible for the correctness of the weight of salt delivered to the purchaser, but it is only fair that his responsibility should there cease. It seems manifestly unjust that he should be held responsible for the subsequent disposal of the salt by the purchaser over whom he can have no control." I believe that the objections to these sections have arisen from an entire misconception of the object in obtaining the signature of the licensee to the contents of Column 1 of the form laid down in Appendix B. The Council will observe that at the foot of that column the words used are "Received the counterpart of this." The signature is required of the "Exporter and Applicant and the Licensee of the Salt Work" to Column 2 of the form. Now, the Council will perceive that these words refer only to the other two portions of the Appendix, which would be torn off. The signature asked for is not to make the licensee answerable for all the particulars in the first column, but is merely to testify that he has "received" the counterpart. There is also some misapprehension with regard to Appendix A, it being supposed that taking not only the signature of the applicant and exporter, but also that of the licensee of the salt work, to that form makes the licensee answerable for all the particulars which it contains. But that was never intended. It was simply intended that the licensee should be answerable for the particulars of which he had knowledge, and the applicant and exporter for those particulars which he or they had knowledge of. In the course of the consideration of these appendices the intention of Government may be made clearer, and perhaps it will be thought better to obtain the licensee's signature only to the contents of those columns referring to the facts which he is actually acquainted with. The next matter objected to by the minority is that which is referred to in Section 42, relating to the prohibition of a greater quantity of salt than 20 seers being contained in an unlicensed building within a distance of ten miles from any salt work. Greater misconception has been exhibited regarding this section than any other, both by the Press, the public, and those honourable members who have dissented from its provisions and from the opinion of the majority of the Select Committee. If the section is carefully looked into it will be seen that it does not prohibit 20 seers of salt from being kept in *any* building; it is only buildings within a radius of ten miles from a salt work which are referred to. Let the section be read with

an intention to understand it—I use these words deliberately, because the Press which has been so loud in its abuse of that section could not, I think, have given its terms the requisite consideration—and the Council will observe that it is a wholesome provision to prevent smuggling. There are many cases which we know of where persons have built storehouses in the vicinity of salt works simply for the purpose of receiving salt illegally passed out of these works, and under this section these buildings will be at once removed or made use of under a license, and thus smuggling to a great extent will be prevented. Any person may hold any quantity of salt he pleases in his own house, provided it is outside of the ten-mile radius. Therefore the objections raised to the section are purely fanciful, and I hope this explanation will do away with the opposition of the honourable members who formed the minority in the Select Committee. With regard to the objections taken to Section 63, perhaps it is doubtful whether this Council would have the power to give authority to the officers appointed under this Act to adjudge imprisonment in commutation of fines, and therefore, when we go into general committee, we shall require to modify this section to some extent. Having gone through those objections which are raised by the Honourable Sir Jamsetjee and the Honourable Mr. Narayan, and having also I hope answered them satisfactorily I do not think there is anything further for me to say atthis stage of the proceedings. With these remarks I beg to propose the second reading of the Bill.

The Honourable Mr. NARAYAN VASUDEVJEE—I think, Sir, that the framers of this Bill, in concerting measures for the vigorous suppression of smuggling, have entirely lost sight of all other principles of policy, expediency, and justice which invariably characterize the administration of this country. When discussing the Bill in Select Committee, almost every objection I advanced was met with the reply that all the restrictions to which I objected were observed in respect to licences to distillers; but I failed to see the analogy, and have therefore been compelled to dissent from the report of the majority of the Select Committee. I admit that it is perfectly just and equitable, in dealing with spirits, to impose such restrictions, not only to protect the revenue from being defrauded, but also to check the consumption of an article which is likely to have a deleterious effect on the public health. With salt, however, the case is entirely different. It is an article which is almost a necessary of life, and in legislating for the protection of the revenue derived therefrom, the Council is bound to guard against any restrictions which will check its manufacture or enhance its price. There is no denying the fact that the heavy duty now imposed on salt is a crying evil in this country, where the masses of the people are struggling for an existence. Indeed, such is the condition of the poor that they are unable to buy even a quantity equal to the allowance Government make in prison dietaries, and, consequently, have often to be satisfied with the mud which they can gather from near the salt-pans and creeks. I know that it is not within the province of this Council to discuss the policy of the Government of India in this matter, nor to pronounce an opinion as to whether the present tax is unjust or equitable; but it is clearly the duty of this Council, in legislating on the subject, to see that the laws which it enacts are such as will ensure the desired object of preventing smuggling and nothing more. So far as I can gather, such also is the intention of the Government of India. As long as salt is heavily taxed there will be always an incentive to smuggling, but I am not aware that it is practised to any large extent in the Bombay Presidency. I believe it chiefly takes place on the frontier lines, where the preventive establishments are

Mr. Narayan states his reasons for disapproving of the Bill.

insufficient to cope with the organized gangs of smugglers across the British border. I have no doubt the present energetic Collector is devoting his attention to this matter, and that by strengthening the cordon of out-posts he will effectually prevent untaxed salt from entering British territory. I would gladly vote for those clauses of the Bill which give him the necessary powers to check smuggling, but the proposed measure goes much further. Its tendency is to extinguish the proprietary rights of the people, to check manufacture, and so to restrict the trade in salt as to make it impossible for respectable traders to engage in it. Even now the difficulties in this and other respects are destroying the salt trade to Calcutta, the exports to which have dwindled down from 743,915 maunds in 1868-69 to 257,580 in 1871-72. The exporters of salt from Liverpool and other parts of Europe and Arabia are subject to no such restrictions as those experienced here, and the consequence is that while the exports from Bombay have been reduced by two-thirds, those from the other ports just mentioned have, I hear, correspondingly increased. This result, I think, is deserving of serious consideration, because it not only acts prejudicially to the interests of traders and ship-owners, but checks the industry of the people. This Council is, perhaps, not aware that salt which sells in Bombay at one and one-and-a-half annas per maund cannot be got in North Canara, which is part of this Presidency, for less than fourteen annas or one rupee per maund. It may be replied that this is due to combination among the traders; but I submit that the greater the restrictions you place on free trade, the greater the facilities you afford for effecting such combinations, the serious consequence of which is that not only have the people to pay Rs. 1-13 per maund duty, but also another rupee for an article which before they purchased but for one anna! Throughout the Concan, the people, excepting in the monsoon when they cultivate the ground, really have no other employment but that of manufacturing salt, from which alone they earn a livelihood. All the salt so manufactured is not required for local consumption. If, however, you enforce the provisions of this Bill, you absolutely forbid the export of salt to the Malabar Coast,—you compel the people in Canara to pay one rupee per maund for it besides the duty—you check its manufacture on this side of India, and destroy the only source of employment known to the poorer classes of the people, who are already reduced to starving point. Again, this Bill imposes upon proprietors of salt works the preventive duties which properly belong to the Salt Collector's Department. By all means let them be required to assist in every legitimate way in the prevention of smuggling; but considering that for every six pies or one anna derived by the proprietor, Government derives the large sum of one rupee and thirteen annas, I think it will be admitted that it is only equitable that Government itself should provide an effective preventive establishment for the protection of its revenue.

Mr. Munguldass states his reasons for opposing the Bill.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—Sir,—After a careful study of the Salt Bill as settled by the majority of the Select Committee and the reports of the able officers on which the proposed law is founded, and after bearing in mind what I personally know as a former proprietor of a large salt pan in the Island of Bombay, and the requirements of the rich and poor of this presidency, and with every desire to assist Government as an humble member of this Honourable Council in preventing the smuggling of salt and thereby in preventing the loss of revenue, I regret to say that I cannot agree with the provisions of this Bill as they at present stand, and I hope your Excellency will permit me to state briefly my reasons in support of this opinion. I will not in this place make any comment upon the injustice and oppressiveness of levying a tax at the rate of 2,000 per cent.

on one of the absolute necessaries of life, because even if this Council were convinced of the impropriety and injustice of such an Act, I am aware they have no power to lower even one pie of the excise. I know that this exorbitant duty has been levied even against the remonstrances of the Bombay Government and its able officers, as the following paragraph from Mr. Pedder's report shows :—

"30. In June 1867 the Government of India again mooted the question of the equalization of the salt tax of Bombay with that of Bengal, and the principal Revenue officers of this Presidency were once more consulted on the subject. This time the balance of opinion was distinctly opposed to a further enhancement of the tax. It was pointed out that, though the presidency in general was prosperous, and the wages of labour had risen greatly in the preceding decade, the price of the necessaries of life had risen in a still larger proportion ; that a succession of deficient harvests had produced much distress among the poorer classes ; that though the construction of railways had lowered the cost of carriage of salt along the main lines of communication, this reduction had been at least balanced by the increased cost of carriage by carts or hack animals where railway carriage was not available ; that every increase in the excise caused a still larger increase in the retail price of salt, as equal returns upon a larger sum invested in the wholesale purchase must be obtained ; that an addition to the cost of a necessary of life tended to raise wages, already so high, as to trench on the legitimate returns to capital invested in individual enterprise ; that very heavy taxation, specially for municipal and local purposes, had been of late years imposed in this Presidency independently of an increase of 100 per cent. to the salt tax within ten years ; that there were good grounds for believing that the different enhancements of the salt tax had greatly diminished the amount of illicit and even of actual consumption ; and that, finally, another enhancement would absolutely debar the future imposition of other taxation for local purposes. These views were embodied in the Government letter of 28th January 1868, to the Government of India."

Now the object sought by this measure is to prevent smuggling, and it is quite proper, nay, it is the duty of Government to do so. But in order to attain their object, Government have thought it proper to apply the remedy of extreme and unjust penal provisions against the proprietors of salt-pans and traders in salt and against the consumers, that is, the whole population of this Presidency, from the poorest beggar to the richest merchant. I am, however, afraid that Government will not gain their object by this measure, as it at present stands, and the only result will be that the price of salt will be increased. This Bill, if enacted into law, as it is, will compel all respectable owners of salt-pans and traders in salt to retire from the business. Their good name and liberty will be completely at the whim and mercy of the peons and subordinates of the Salt Department ; and the manufacture of salt will get into the hands of such proprietors and traders as would not care about going to jail if detected in dishonest proceedings, and as will be ready, as long as they are not detected, to give handsome bribes to the ill-paid subordinates of the department. The suppression of salt works will ruin the proprietors, and the honest owners of such works will be compelled to sell them at low prices to save their honour and reputation. The cost of constructing and repairing store-houses in such a manner as the officers may require, of providing bags for packing the salt must necessarily add to the cost of the salt. And the concentration of salt works, chiefly at Kharagora, a place between Guzerat and Kutch, must also add to the cost of the salt, as it must be brought from there to all parts of this Presidency, so that the poorer classes of the people,

who form the bulk of the population, will have to reduce their consumption of this absolute necessary of life at the certain risk of their health and perhaps of their lives. In fact, from enquiries I have made in my own house, and from what I know of the requirements of the other well-to-do natives, I have found that we consume at an average from 18 to 20 lbs. per head annually, and besides about 10 lbs. annually are required for each horse or cow. Now I find from Mr. Pedder's report that the annual consumption of salt is only 10 lbs. per head, but this is evidently to be attributed to the fact that the people have not the means of getting and consuming more. Another curious fact is, that while in both this and the Madras Presidency the average consumption per head of population is 10 lbs., it is only 8 lbs. per head in the Bengal Presidency and North-West Provinces, where the salt duty is higher than what it is here. This bears out the fact that the enhanced revenue which has been secured in the latter provinces has been obtained at the cost of diminished consumption and consequently at the risk of public health. On considering the means at present employed by Government to prevent the smuggling of this absolute necessary of life, I am rather surprised at the small extent of actual smuggling. It is not necessary for me to show that smuggling is attributable in a great degree to the corruption of the subordinates of the Salt Department. This is quite evident from paragraph 245 of Mr. Pedder's report, which I shall quote with your Excellency's permission :—

"245. I am bound to say that I think the measures I have proposed will be of little service unless the department is organized differently to what it is at present, that it is now not efficient, and that there is much corruption among its subordinate officers. Were the department in an efficient state, it seems to me that frauds which (unless I am altogether mistaken in the conclusions I have arrived at) have now been shown to exist, would have been at least detected long ago ; that the evils pointed out in this report would have been brought to notice, and suggestions for their removal made, by officers of the department itself ; that the accuracy of the statistical information hitherto accepted would have been questioned. Nor can I believe that an organized and extensive system of smuggling could exist without general, I might almost say universal, connivance of the subordinates of the department."

Mr. Munguldass thinks the best thing to do to stop smuggling is to increase the strength and pay of the Salt Revenue Department.

In my opinion the best thing which might be done to check smuggling is to increase the number and pay of the establishment on a footing of equality with that of the district police, so as to induce good and experienced men to join the Salt Revenue Department. I would suggest that the few salt-pans which may be difficult to guard may be purchased at a fair price under the Land Acquisition Act of 1870. A stringent law for the punishment of those who are guilty of smuggling will act as a deterrent ; while liberal salaries to subordinates will act as an encouragement to them to be honest and active in preventing smuggling. And this may be done without enhancing the price of salt and without any consequent risk to the public health. I would request this Council not to pass this Bill as it at present stands, because, considering the nature of a great many of its stringent, harassing, and sweeping provisions, I have no hesitation in saying that they are calculated to entail peculiar hardship, not only on the proprietors and traders of salt, but also on the consumers who form the entire population of the country, and thereby cause a wide-spread dissatisfaction. The avowed object of Government in bringing forward this measure is to prevent smuggling of salt. Now I would ask whether the measure which it is proposed to be forced on the

people for such a cause can be defended on principles of justice and equity? Another ground on which I disapprove of the principle of the Bill is, that when the proprietors of salt-pans made large investments in their concerns, they could have had no idea that such restrictions and obligations would be imposed on them. If Government, however, consider the adoption of such a measure necessary, it is but due to the present proprietors of salt works that they should be sufficiently compensated for the heavy loss they will sustain by the interference on the part of Government with their established rights of property—rights which I understand have, in several instances, been regularly guaranteed by the British Government by special grants of hereditary tenures. The provision which imposes an obligation on the proprietors of salt-pans to prepare annually a list of persons to be employed by them seems to me objectionable. I give a few reasons, which will show how much inconvenience and loss will thereby be caused to the owners of salt-pans. The quantity of work to be performed is not the same at all times; while the services of a certain number of men will suffice at one time, three or four times the number may be required at another time. Again irregularity in their attendance must occur. It may sometimes be necessary to dismiss some of them owing to their faults. And, moreover, when these workmen find that the proprietor must employ them, they will demand higher wages than otherwise. Such are the difficulties attending the preparation of the list, which would only prove a source of perplexity and trouble to the proprietors. The provision which makes the proprietor of a salt-pan criminally liable for any offence committed by his servants against the provisions of this proposed law is open to grave objection. So far as my information goes, there is no system of criminal jurisprudence which sanctions the imposition of such a liability on the proprietor It is irreconcilable in its very nature even with common sense. The diligence and supervision of a master is no guarantee for the honesty and integrity of his employés. We know of instances in which dishonesty is practised by servants even against their employers, and if the master is unable to prevent fraud being committed by his servants upon himself, how can he be made liable for any offence on their part merely because the interests of a third party are affected. It is very much to be apprehended that such a provision will place the owner of a salt-pan quite at the mercy of his hired servants or labourers. If they entertain hostile feelings against him they might easily bring him into trouble and ruin him. Although the Select Committee have modified this provision to a certain extent, yet it makes it obligatory on the proprietor to establish to the satisfaction of the Governor in Council that he had taken all due precautions to prevent the commission of such offence, and unless this is done, his salt work will be suppressed! In several sections the punishment provided is the suppression of salt works, which must impress the proprietors, the traders in salt, as well as the public generally, with the idea that the whole object of Government in passing this law is to monopolize the salt trade. The Bill also gives the summary power to suppress any salt work, but the manner prescribed for awarding compensation to the proprietors seems to me insufficient and inequitable. The responsibility of the proprietor should cease as soon as salt is removed lawfully from his salt-pan by a trader. It is not his business to see where the salt is carried by the purchaser. As soon as the possession of the salt is lawfully transferred from the owner of a salt-pan to the trader, the responsibility of the former should end and of the latter should commence. It should on no account be made obligatory on the manufacturer of salt to comply with such conditions as are required in Permit B. Such a provision will involve unnecessary loss of time and money to the proprietor. Some of the provisions applicable to the traders of salt

are most objectionable. They require the traders to specify the particular place to which they are to export their salt. This appears to me unreasonable and unduly restrictive. Prices of salt might go up and down at different places and at different times, and the trader should be left at liberty to export the commodity to any place he should think it most profitable for him to do. He might have reasons at a particular time to believe that if he exported salt to a certain place he might be a gainer, but the circumstance which had led him to arrive at such a conclusion might afterwards cease to exist, and his decision must necessarily undergo a change. Another equally hard and objectionable obligation imposed on the trader is to specify the time within which he will convey salt to its destination. Let us consider for a moment the uncertainties and accidents which human affairs are liable, and it will at once convince us of the impracticability of his complying with such a condition—owing to the sickness of the trader while on the journey, or owing to the outbreak of an epidemic among the cattle carrying the salt, unavoidable delay is sure to occur. Besides a compliance with this requirement in the case of carriage of salt by sea becomes also for obvious reasons quite impossible. The injustice of such conditions is, I think, self-evident. As the honourable member in charge of the Bill has assured the Council that the provision prohibiting possession of more than 20 seers of salt will not be made applicable to all places, but to those places only which may be contiguous to any salt work, I refrain at present from making any further comment on that provision. With these remarks I beg to express a hope that the unanimous remonstrance of the native members of this Council and of the petitioners against the passing of this measure will be fully considered by your Excellency, and the Bill will be thoroughly modified, and under this hope I do not vote against its second reading.

His Excellency the PRESIDENT—I gather from what has fallen from honourable members that it is not their intention to vote absolutely against the second reading of the Bill.

The Honourable Mr. MUNGULDASS—But we hope that upon proving the impracticability of carrying out certain of the sections Government will consent to their alteration.

His Excellency the PRESIDENT—Certainly. The Honourable Mr. Narayan referred strongly to the prevalence of frontier smuggling, but I believe it was ascertained some few years ago that more salt was exported from Bombay than ever went lawfully into it—that the whole consumption of Bombay was in point of fact illegally obtained, while some salt was left for exportation into the bargain. If that is the case, does it not show that Government ought to make some endeavour to put a stop to the prevalence of smuggling?

The Honourable Mr. NARAYAN—But I think Mr. Pedder was misinformed when he wrote regarding what His Excellency has just said.

His Excellency the PRESIDENT said that of course his statement might be corrected if it were wrong.

The Honourable Mr. BYTHELL—I do not intend to vote against the second reading of the Bill, for I do not agree with the outcry that has been raised against legislation on this subject being attempted. On the contrary, I believe that the facts referred to by the honourable mover of the Bill on the first reading show that legislation is imperatively needed. At the same time, however, I consider that the Bill as it now stands is unnecessarily stringent: I shall support, therefore, strongly many of the proposals for amendment which are to be brought forward; and as the members of the Executive Government assured the Council it is their wish to agree to all reasonable alterations, we

Mr. Bythell approves of the Bill generally, but thinks it rather stringent, and requires modification.

may hope that the discussion in detail will leave the Bill in a shape that will be just to the interests concerned. While sympathising with some of the statements which the honourable native members of this Council have made and the feelings they have expressed, I do not intend to oppose the main provisions of this Bill, because I think a very good cause has been made out for the necessity of Government taking some steps to put a stop to salt smuggling. The Honourable Mr. Narayan spoke very strongly about the heavy duty upon salt being a crying evil, and probably it would be a good thing for the people if there were no salt duty at all: but, as he himself stated, that is a matter which this Council cannot deal with. So long as the Government of India decides that this very heavy duty shall be levied, I think that the honourable member will agree, that for Government to stand quietly by and permit smuggling would be to commit a very great injustice to the very people whom the honourable member rightly wishes to protect—namely, the poor people. To allow smuggling is the very way not only to decrease the revenue, but also to increase the burdens upon all who use salt. It simply allows smugglers to tax the people for their (the smugglers) benefit.

The Honourable Mr. NARAYAN—I merely made a passing remark that it was not within the province of this Council to discuss the policy of the Government of India.

The Honourable Mr. BYTHELL—I think that the Honourable Mr. Narayan complained of the enormous burden imposed by the Salt Tax when stating that some of the sections were exceedingly stringent. I agree with him that amendment is necessary, but we have the assurance of the Honourable Mr. Rogers that if good reasons are shown the objectionable section shall be modified, so I think that much of the opposition to the Bill may be avoided. We ought not to lose sight of the fact that where such an enormous duty is levied very strong expressive measures are absolutely needed, or smuggling will both exist and thrive. The Honourable Mr. Narayan spoke of the oppressive measures regarding salt sent to Calcutta having injured trade considerably. I understand that during the last year or so the authorities in Bombay who have to deal with the export of salt to Calcutta have been introducing more stringent rules than used to exist before, and I believe that one measure which they have instituted is unjust. I have heard on good authority—in fact, I have seen documents which prove the case—that if a salt-laden ship has arrived in Calcutta, and proved to the satisfaction of the Board of Revenue that bad weather has led to the destruction of a portion of the cargo, nevertheless the Government of Bombay, notwithstanding that the Calcutta Board of Revenue has granted a certificate that they believe a certain amount of the cargo was destroyed by causes over which the shipper had no control, has refused to acknowledge that certificate, and made the Bombay exporter pay the full Bombay duty upon the quantity of salt which the Board of Revenue in Calcutta had declared to have been accidentally destroyed. In that objection I agree with the Honourable Mr. Narayan; but I think he is quite mistaken that these oppressive measures have yet injured the trade or are the cause of the great decrease in the export to Calcutta.

Mr. Bythell thinks that the Bombay Government ought to recognise certificates of damage to salt granted to shippers by the Calcutta Board of Revenue, and should give drawbacks accordingly.

The Honourable Mr. NARAYAN—I never used those words. I merely referred to the difficulties that were placed upon trade between Bombay and Calcutta.

The Honourable Mr. BYTHELL—I am not going to criticise the actual terms the Honourable Mr. Narayan made use of. I myself have said that the fact of the Calcutta Board of

Revenue's certificates being refused by the Salt Department in Bombay is a hardship and is oppressive. I was about to say, however, that the falling off of the salt trade between Bombay and Calcutta is not due to these oppressive or repressive measures. The rules referred to have only lately come into force, and could not possibly have affected the trade by this time. The reason is to be found in the fact that the whole shipping trade of Bombay has been changed by the completion of the Suez Canal. Formerly, when sailing vessels arrived in the monsoon time they could not get homeward cargo, and they preferred taking a load of salt instead of ballast to Calcutta, where cargo could generally be had. Steamers have now taken the place of sailing vessels to a great extent, and as these steamers could not come out in numbers during the slack season and do not carry salt when requiring ballast, there are not the former facilities for exporting salt, and hence the trade has fallen off. The opening of the Suez Canal is in fact the real cause of the decrease. As regards the powers given to Government to close salt works which do not produce 5,000 maunds upon an average of three years, I observe that a similar provision exists in the Madras Act, and as an owner is to be fairly compensated I do not think he will have anything to complain of. At all events if there is any prospect of injustice being committed, this Council will remember the Honourable Mr. Rogers' remarks that Government will be glad to agree to any reasonable amendment. I repeat I shall not vote against the second reading, and as to certain sections which I think require amendment, I shall reserve my remarks upon them until the consideration of the Bill in detail.

Mr. Bythell contends that it is not any measures taken regarding salt which had injured the salt trade between Bombay and Calcutta. That injury had arisen through the opening of the Suez Canal.

The Honourable Mr. ROGERS—Sir,—I have a few words to say in answer to the arguments brought forward by the Honourable Mr. Narayan and the Honourable Mr. Munguldass. The Honourable Mr. Narayan at the outset of his speech stated that the provisions of this Bill are contrary to the policy, expediency, and justice which invariably characterise the administration of this country. As a member of the Executive Government I have endeavoured to assure this Honourable Council, and through them the public generally, that any oppressive measures have never been contemplated by Government in introducing this measure. If that is not sufficient to convince honourable members of the nature of the intentions of Government, I can only point to the fact that Government itself is very largely concerned in this matter, for if it by any of its measures checks the production and consumption of salt it will be the greatest sufferer. Surely, therefore, even judging by the lowest standard of self-interest, Government is to be trusted. So far from what has lately been done tending to check the production of salt, I am assured by the Collector of Salt Revenue, Mr. Pritchard, that he has already received a number of applications from people to be allowed to open new salt works at more convenient places than the old ones. Those manufactories which have already been closed have simply been closed with the object of concentrating the manufacturing area so that Government may be able to exercise proper control in the district. Hitherto salt works have been scattered throughout the country in places where no proper control could be exercised, and the great object of introducing provisions in this Bill by which salt works may be closed, even though they produce more than 5,000 maunds a year, is simply to prevent smuggling. The Honourable Mr. Narayan told us that smuggling did not take place in our own territory but across the borders of the Presidency. Your Excellency, however, has pointed out that smuggling prevails to a great extent in

Mr. Rogers replies on the debate.

Bombay, and that it also exists in other parts of the Presidency I can vouch for. There is no doubt that much of the smuggling takes place from the salt works themselves, and I am sorry to say that we are under the impression that to a certain extent it is assisted by the collusion of our own subordinate officers. One great object of desiring that all proprietors of salt works shall take out licenses is to secure the assistance of these people in putting a stop to smuggling. Hitherto these proprietors have lived in Bombay or elsewhere apart from their works, and contented themselves with drawing the profits from their works without taking the slightest trouble to see that smuggling on their property was prevented. That these people should assist in the prevention of smuggling is, considering the profits they enjoy, not an unreasonable desire on the part of Government. With reference to the Honourable Mr. Narayan's observations as to the great falling off of the export salt trade between Bombay and Calcutta, the Honourable Mr. Bythell has assigned the true cause, which is that the trade of Bombay has completely changed since the opening of the Suez Canal. Formerly many vessels came to the port which during the monsoon found it profitable to carry salt in the place of ballast to Calcutta. These sailing vessels have almost entirely been superseded by steamers, which do not find it worth their while to continue the salt trade formerly enjoyed by the sailing ships. Another of the arguments which were brought forward by the Honourable Mr. Narayan against this Bill is that it will tend to increase the cost of salt. I should like to see that statement proved by statistics before accepting it. I do not, for myself, believe that this Bill will in the least increase the price of salt. There may be a case or two in some parts of the Concan. I may explain the reasons of the great increase of the price of salt in Canara. Since that district was handed over to the Bombay Government the owners of salt manufactories there have purposely reduced their manufactures so as to enhance the price of salt. They do not make enough to meet the wants of the people. By this means they cause dear foreign salt to be imported into the country, and then they clear large profits by selling their own salt at the same rates as the foreign salt. Of course by this means the Government revenue suffers considerably, while the incentives to smuggling are greatly increased. I am not aware whether the honourable member meant to say that the provisions of this Act will in any way forbid the export of salt to the Malabar Coast. If the honourable member compares Section XIX. of the Bill as it now stands and as it stood formerly, he will see that special exemptions may be granted by the Government in special cases. It therefore does not follow that the full export duty at Rs. 1-13 per maund would be insisted upon regarding the whole of the Malabar Coast. It is very probable that in these exceptional cases a trifling payment is all that would be required from the exporter. The HonourableMr. Munguldass in his speech referred to several points which have already been disposed of, the reason of which I have no doubt is, that having written certain things down, he felt bound to say them. In one particular instance he was pleased to say that the remarks which had been made obviated the difficulties which he anticipated, but the same remark might almost have applied to all the difficulties of which he spoke. He seems to be under the impression that this measure will raise the price of salt, and that all respectable owners of salt manufactories will retire from the business. But I think that what I stated a short time ago is against that argument, namely, that so far from the manufacture of salt being checked, numbers of applications for the opening of new salt works have already been made. I may mention a most absurd idea which seems to have taken possession of some people—men who really ought to have known better. The idea is that the Government salt works at Kharaghora have been opened in order to

monopolize the whole of the salt trade of the Presidency. I can only characterise such an impression as utterly absurd, and I think this Council will agree with me. We have throughout assured the public that there is no intention of Government interfering with vested interests except for the purpose of preventing smuggling, and that where vested interests are interfered with ample compensation will be given. The Honourable Mr. Munguldass raised an objection with regard to the responsibility that will be thrown upon a licensee by signing the forms of application attached to the Bill. I have already explained the misapprehensions which exist on this point, but I may now state further that all the details entered in the first column of Appendix B. are simply for the purpose of allowing Government to secure statistical information, for of course it is of great importance to us that we should know how the trade is going on in various parts of the Presidency. As this first column is solely meant to enable Government to procure this information, I really do not see what harm can be done to licensees by attaching their signatures to the document. The information in Appendix B. will be filled in from what is contained in Appendix A. and (as I said a short time ago) we can arrange for the signature of the applicant and exporter together with that of the licensee being taken only to those parts of the appendices upon which they must be specially informed.

His Excellency the PRESIDENT put the motion to the Council—that this Bill be read a second time.

Bill read a second time and considered in detail.

The motion was agreed to, and the Council proceeded to consider the Bill in detail.

His Excellency the PRESIDENT moved that Section II. should be altered to read as follows:—Section IV. of Act XVI. of 1844, and so much of Act XXVII. of 1837 and of Act XXXI. of 1850 as has not already been repealed, are repealed.

The amendment was agreed to.

On the motion of the Honourable Mr. ROGERS the words:—" order or permit issued under this Act or " were inserted in line 26 of Section III., between " any " and " of."

The Honourable Mr. GIBBS called attention to the following definition of the word " salt ":—" The word 'salt' shall include every saline substance and preparation used or intended to be used with food." This definition would include Pyretic saline, Epsom salts, and sal-ammoniac. Was this intended?

The Honourable Mr. ROGERS said that the definition only referred to substances removed from salt works or to spontaneous saline productions.

It was decided to strike out the definition of salt, and accordingly the last three lines of the first paragraph of the section were deleted.

Regarding Section IX. the Honourable Mr. NARAYAN said—This section gives power to officers to enter and inspect salt works and warehouses, and any " premises." I move that the word " premises," occurring in line 6, be expunged on the principle that every man's house is his castle. I would prefer that the corresponding section in Act VI. of 1863, the Customs' Act, should be substituted.

Mr. Narayan objects to Salt Officers being permitted to enter private premises when they chose.

The Honourable Mr. ROGERS suggested that a proviso should be added exempting dwelling-houses from the operation of the section. He thought that with the exception

of dwelling-houses any house or premises should be entered at any time if an officer suspected that salt was stored in them.

His Excellency the PRESIDENT said that as the section stood very large powers were given to officers, and he suggested that the last two lines of the section should read thus—"work, or any warehouse, or premises used for storing salt, or any vessel which has been or is proposed to be laden with salt."

The amendment was agreed to.

Regarding Section X., the Honourable Mr. NARAYAN said that in the Customs Act there was a protective section declaring that for illegal arrest or wrongful detention the officer committing the fault should be subject to a penalty not exceeding Rs. 100. He would like to see a similar clause adopted with relation to Section X.

His Excellency the PRESIDENT remarked that such a clause was unnecessary, as the Bill before the Council provided in a subsequent section for a penalty being exacted from officers for vexatious conduct.

The Honourable Mr. ROGERS remarked that Section II. of the Bill was a section upon which considerable alterations had been made by the Select Committee.

The Honourable Mr. NARAYAN called attention to the objections taken to the section in the petition from Mr. Byramjee Jejeebhoy and others.

His Excellency the PRESIDENT pointed out that the petition related to the section before it had been amended by the Select Committee.

The Honourable Mr. ROGERS said it was suggested that the following words should be added to Section XII:—"or other officer duly authorized to take cognizance of the offence."

The Honourable Mr. GIBBS doubted whether any officers could thus be vested with powers for punishing.

The Honourable Mr. ROGERS said that whether the amendment was necessary depended upon what the Council agreed to regarding Section LXIII.

The consideration of the section was accordingly postponed.

The Honourable Mr. GIBBS suggested at this stage that it would be necessary to have a definition of "vessel," and accordingly the following paragraph was inserted among the interpretation clauses :—"The word 'vessel' shall denote anything made for the conveyance by water of human beings, animals, or property."

The words "premises or vessels" were inserted after "building" in line 6 of Section XVI.

With reference to Section XVIII., the Honourable Mr. ROGERS pointed out that this section was one which had been considerably amended in Select Committee. As the section originally stood it was believed that an officer might summon any person he chose, but it had now been altered in such a way as to prevent him from sending for any person not thoroughly acquainted with the subject of inquiry.

The Honourable Mr. BYTHELL demurred to "any officer appointed under this Act" having power to order any person before him whom he considered requisite. A limit ought, in his opinion, to be put upon the degree of officers who should be invested with this power.

The Honourable Mr. MUNGULDASS concurred with the Honourable Mr. Bythell, and thought that no officer of less degree than a Sir-Carkoon should be invested with the powers of the section.

The Honourable Mr. ROGERS had no objection to the proposed amendment.

The Honourable Mr. NARAYAN wished to know whether witnesses thus summoned would be allowed batta allowances ?

The Honourable Colonel ANDERSON thought not, because as a general rule the witnesses would be summoned for local enquiries simply.

His Excellency the PRESIDENT said that it need not necessarily be a local inquiry, and a witness might have to go many miles in order to appear before the officer sending for him. He would approve of a proviso being inserted in the section to the effect that any person so summoned should be paid his reasonable expenses.

The Honourable Mr. GIBBS was of opinion that it was unnecessary to provide in the Bill before the Council for the payment to witnesses of their expenses, because these would certainly come under the Government of India's general rules on the subject.

The Council concurred.

The Honourable Mr. GIBBS pointed out that if a " true information" were to be secured from a witness the administration of an oath would be necessary.

The Council then agreed to add to the Bill a section to the desired effect.

The words " an officer in charge of a salt work or of a preventive station " were struck out of lines 3, 4 and 5, and " a Sir-Carkoon or Daroga " inserted " after than " in line 3.

Regarding Section XIX., His Excellency the PRESIDENT said that the Government of India considered that the matters treated of in this section ought to be left to the operation of the existing Act XXIV. of 1869.

The Section was according deleted, together with the relative section following.

Regarding Section XXI. His Excellency the PRESIDENT remarked that this section raised the question of persons having hereditary right to manufacture salt. Some persons had shown him documents signed by Mr. LeMesurier and a former Collector which vested in the holders of them a right to manufacture for every Rs. 10 they paid.

The question of certain persons having an alleged hereditary right to manufacture salt.

The Honourable Mr. ROGERS thought if these documents were looked into it would be found that they related simply to the payment of a ground rent.

The Honourable Mr. GIBBS considered that if any persons had a hereditary right to manufacture salt they should be provided with a new license by the Collector.

His Excellency the PRESIDENT—That is just what these people object to. They say they have the hereditary right and must not be interfered with by this Bill.

The Honourable Mr. BYTHELL asked if under this Bill a Collector could refuse to give a license to any person.

The Honourable Mr. GIBBS thought not. The only effect of giving a license to those people having hereditary rights would be, it appeared to him, to bring them under the ordinary rules of the Bill relating to manufacture and disposal of their salt. Their right to manufacture would not be at all interfered with by the license.

The Honourable Mr. NARAYAN—But of course these persons would be subject to the rules of the Governor in Council. Why should that be if they are already possessed of a special right of manufactory ? I have now with me a lease granted by the Peishwa's Government and another granted to a different person, signed by Mr. LeMesurier, and it certainly appears to me that the proprietary right of the lessees are established under these leases.

The Honourable Colonel ANDERSON—It is quite clear that if any persons possess true leases, Government must compensate them if for fiscal purposes it resumes their right.

The Honourable Mr. ROGERS (after examining the documents which the Honourable Mr. Narayan handed to him)—These leases appear to be sunnuds by which the lessees are entitled to make salt hereditarily, but they do not prevent the present, or the Government of the day, from imposing such other conditions for the manufacture of salt as seems to it to be necessary. These sunnuds appear to me to relate to salt belonging to Government itself, and up to 1850 Government went so far as to fix the rates at which salt should be sold out of the very salt works referred to.

His Excellency the PRESIDENT—But we have the fact before us that many of these claimants to hereditary right brought their own salt works into existence.

The Honourable Mr. NARAYAN—They did indeed ; and that is stated in these leases. I submit that Government cannot now prevent these people from making salt.

The Honourable Mr. MUNGULDASS—I would go even further, and say that it would be unjust to subject these people to such rules as will diminish the income from their salt works.

His Excellency the PRESIDENT—These men must be brought under certain rules, because we cannot allow them to enjoy the full right of smuggling.

The Honourable Mr. NARAYAN—They ought to be made amenable to all the provisions of this Act, but we cannot prevent them from making salt.

The Honourable Mr. GIBBS thought the difficulties in the case might be met by adopting certain amendments upon Section XXIII.

Sections XXI. and XXII. were then agreed to, and Section XXIII. was amended so as to run as follows :—"A license for the manufacture of salt shall not, except as hereinafter mentioned, be refused to the proprietor of any salt work not being the sole property of Government which is being worked at the time of the passing of this Act, or which may have been worked within three years previous to the date of its introduction, *or to any person who may establish by virtue of* a *sunnud granted by the British or any former Government* a special and permanent *right to manufacture salt. Except in the case of saltworks owned by the holders of sunnuds as aforesaid*, the Governor in Council may at his discretion at any time withhold or withdraw a license for manufacturing salt at any salt work whatever which on an average of the three years last preceding shall not have produced yearly at least five thousand Indian maunds of salt," &c.

The Council resolve to allow licenses to be granted to persons possessing sunnuds establishing a hereditary right to manufacture salt.

The Honourable Mr. ROGERS said that were the Council to agree to the alterations they would be practically admitting that these hereditary rights existed.

His Excellency the PRESIDENT—Those who claim hereditary rights must prove their case.

The Honourable Mr. NARAYAN.—And if they do possess these rights this Council cannot extinguish them.

The Honourable Mr. ROGERS mentioned that there were cases in which people claiming to possess hereditary rights had already had their works suppressed by Government, and he would therefore suggest that before passing the third reading of this Bill enquiry should be made whether such rights existed.

The Honourable Mr. NARAYAN had no doubt that the rights existed, because a man had come to him the other day and showed him the actual sunnud which had been granted to him by the Peishwa's Government.

The Honourable Mr. MUNGULDASS said that, even supposing the sunnuds were forgeries, Government is not bound to accept them as genuine till they are proved to be such.

His Excellency the PRESIDENT—The question also arises, when Government withdraws a license, is compensation contemplated?

The Honourable Mr. GIBBS—I think that any person possessing a sunnud should have compensation by virtue of the sunnud.

His Excellency the PRESIDENT—Then we might alter the section to that effect.

The Honourable Mr. GIBBS pointed out that what His Excellency desired was covered by the words, "Except in the case of salt works owned by the holders of sunnuds as aforesaid."

The Council then agreed to the alterations hitherto made upon the section.

The Honourable Mr. GIBBS pointed out that the words "any three years" used in line 12 were very vague, and a more definite limitation would require to be fixed. If the words "any three years" were left in the section an energetic Collector who wished to shut up a particular salt pan might go back forty or fifty years, and select the three years which would suit his purpose.

The Honourable Mr. ROGERS remarked that the question of what three years meant had been decided by the High Court of Bombay to mean three consecutive years.

The Honourable Mr. BYTHELL agreed with the Honourable Mr. Gibbs that it would press very hardly upon a salt manufacturer if a Collector choose to pick his "any three years" from a long period back.

It was decided, after some conversation, to substitute for "any three years" in line 12 the words "the three years last preceding"; and the last five lines of the section were altered to read as follows:—"and with the like exception the Collector of Salt Revenue may at any time withdraw or withhold a license from any salt work if no salt shall have been manufactured therein for the three years last preceding."

The section as amended was then agreed to.

The Honourable Mr. NARAYAN thought that Section XXIV. might well be expunged. It was, he said, not wanted and was very vexatious.

The section was struck out.

His Excellency the PRESIDENT said the Poona Association mentioned Section XXV. as a peculiar piece of oppression.

The Honourable Mr. BYTHELL said he found none of the other petitioners objecting to it.

No amendment was made in the section.

The Honourable Mr. ROGERS said that Section XXVI. was merely meant to apply to natural formations of salt.

His Excellency the PRESIDENT suggested that to make the section clearer "or any formation of salt" should be inserted after "Act" in line 6; and that "or formation" should be inserted after "manufacture" in line 7.

The amendments were agreed to.

With reference to Section XXVII., the Honourable Mr. NARAYAN could not understand how Government could exercise the large powers contained in this section.

The Honourable Mr. ROGERS remarked that if some such powers were not granted, the whole of the money which Government had expended in establishing salt works would be so much money thrown into the sea.

The Honourable Mr. BYTHELL thought this section was absolutely necessary.

Referring to Section XXIX., the Honourable Mr. NARAYAN thought that an owner's responsibilities should cease after he had delivered the goods.

His Excellency the PRESIDENT thought that an owner of a salt work discharged his duty as soon as he delivered the amount of salt applied for.

The Honourable Mr. ROGERS was of opinion that no "delivery" of salt was completed until it had passed through the preventive stations. Were the Bill to be otherwise a great deal of smuggling would take place between salt works and the preventive stations.

The Honourable Colonel KENNEDY concurred.

After some discussion the Council agreed, on the motion of the Honourable Mr. GIBBS, to insert the following words in Appendix A. to the Bill:—"I certify the correctness of the entries in columns 3, 4 and 5."

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Poona, 6th October 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Tuesday, the 7th October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, BART., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

The Bombay Salt Bill considered in detail.

The Council proceeded with the consideration of the Bombay Salt Bill in detail.

Referring to Section XXX., the Honourable Mr. NARAYAN said that a similar alteration in Appendix B. was required as had been made in Appendix A.

The three last lines in the Appendix were struck out, and the Appendix was then agreed to.

The Honourable Mr. NARAYAN called attention to the fact that one or two of the petitions objected to that part of the section which required the specification of the number of days within which the salt must be conveyed to its immediate destination.

The Honourable Mr. GIBBS wished to explain to the Council the meaning of "immediate destination." Supposing a person were taking salt from Penn for the Central Provinces, he would first require to land the salt in Bombay, and Bombay under these circumstances would be the "immediate destination."

The Honourable Mr. NARAYAN remarked that the "immediate destination" might be the Malabar Coast, and then it would be impossible to say how long it would take to land salt there in a sailing vessel.

The Honourable Mr. BYTHELL said that it seemed very hard, if a person were accidentally detained on his journey, that he should be liable to punishment of one kind or another under this Bill.

His Excellency the PRESIDENT said that if a man's bullocks died upon the road, or some similar accident to him occurred, which prevented him from delivering his salt within a stipulated time, Government would certainly never prosecute him, but nevertheless, where no accidents happened, it would be very right for Government to have the power of insisting that salt should be delivered within a reasonable time. He approved of a person being compelled to fix a time for the delivery of his salt, because in the event of his non-fulfilment of the stipulation a reasonable explanation of the delay would be sure to be accepted.

The Honourable Mr. NARAYAN to a great extent concurred with His Excellency the President, but thought, nevertheless, that some protection or assurance ought to be given to a man who had been detained from delivering his salt by causes over which he had no control that he would not lose his property.

The Honourable Mr. GIBBS was of opinion that the provisions of the Penal Code would be a sufficient guarantee in such circumstances.

His Excellency the PRESIDENT was somewhat doubtful of this, considering the specific terms of Section LIX., the "penalty section," relative to the matter under consideration. He thought that that section ought to be amended to the effect that whoever should be "wilfully" guilty of a breach of any of the provisions of this Act. Moreover, if this were agreed to, it would be in accordance with the desire of the Government of India.

The Honourable Mr. NARAYAN, while agreeing with His Excellency the President's views, pointed out that in the Customs Act a corresponding section used the word "wilfully."

After some further discussion Section LIX. was amended so as to run thus:—"Whoever shall be guilty of a breach of any of the provisions of this Act or of any license, permit, or rule, made or issued in pursuance thereof, for infringements of which special penalties shall not have been prescribed, shall be liable to a fine not exceeding Rs. 200, or in default to imprisonment of either description which may extend to one month."

His Excellency the PRESIDENT, reverting to Section XXX., raised the question whether a further permit than that which the section referred to would not be necessary, because, supposing that any person had succeeded in obtaining a hundred maunds of salt and carried it to Bombay without a permit, and afterwards carried it on to Poona, the Salt Department authorities would not have power to interfere with it even if by the time it was on the way to Poona they discovered it to have been illegally obtained in the first place. Bombay, in such a case, would be the "immediate destination" and hence the powerlessness of the authorities to interfere with the salt when on its way to Poona.

The Honourable Mr. GIBBS said that such a case would be met under the general provisions of the Act relating to the mode of procedure regarding "contraband salt," because the hundred maunds of salt would undoubtedly be "contraband salt."

Regarding Section XXXII., the Honourable Mr. NARAYAN mentioned that certain of the petitioners objected to the re-weighment of salt "in such manner as the Collector of Salt Revenue may from time to time direct."

The Council decided to make the re-weighment permissive, and in line 9 "may" was substituted for "shall."

In line 3 of Section XXXV., the words "a permit" was substituted for "an order."

The Honourable Mr. NARAYAN said that petitioners objected to Section XXXVI.

The Honourable Mr. ROGERS remarked that the section had been amended to some degree in Select Commitee, and therefore the strictures of the petitioners had been for the most part met. If licensees established to the satisfaction of the Governor in Council that they had exercised "all due and reasonable precautions," words which the Bill as originally drafted did not contain, they would not be interfered with.

The Honourable Mr. NARAYAN drew special attention to the words "if any persons employed thereat shall have been guilty of any offence against the provisions of this Act," and contended that, according to these words, a salt manufacturer might have his works suppressed for the fault of a coolie of whose procedure he knew nothing.

Ought salt proprietors to be made responsible for infringement of the act by their subordinates.

The Honourable Mr. MUNGULDASS said it would be most unjust to confiscate the property of an owner for a trivial offence against some of the rules to be published hereafter by the Governor in Council which a coolie might commit. The labourers employed on salt works were, as a rule, ignorant and degraded persons, whom the most vigilant of masters could not prevent from infringing the rules.

The Honourable Colonel ANDERSON was of opinion that a master ought to suffer the penalty of carelessly employing bad servants. He was of opinion that "due and reasonable precautions" was a sufficiently wide term to meet all difficulties.

The Honourable Mr. NARAYAN would certainly hold a proprietor guilty for any act of wilful neglect, but could not agree to a proprietor being made so terribly responsible for the delinquencies of "any" of the persons employed at his works.

The Honourable Mr. MUNGULDASS thought it would be no doubt justice if the person immediately concerned in an offence were punished, but to make a master liable to have his salt works suppressed because a coolie committed a slight offence was so unfair, that he thought the Honourable Council could never approve it. He begged to move that the words "if any of the persons employed thereat," occurring in lines 15 and 16, should be omitted.

Mr. Munguldass, in order to prevent a proprietor being held responsible for the errors of subordinates, moves the omission from Section XXXVI. of the words "if any of the persons employed thereat."

The Honourable Mr. GIBBS deprecated the alteration, because he was aware of the owners of certain works carrying out a regular system of smuggling which was performed by coolies and the like, while they themselves remained in the back-ground. If the "men of straw" were captured they alone suffered the punishment, while the chief delinquent escaped, and it was to meet cases like this that the section had been framed.

The Honourable Mr. MUNGULDASS replied that by all means the persons putting forward the "men of straw" ought to be punished if that offence were proved against them.

The Honourable Mr. NARAYAN said that, moreover, there were certain rights of property which must be protected, and these might be violated if the section were passed unaltered.

The Honourable Mr. GIBBS wished to know if the rights of property referred to by the honourable member were to be respected in the case of men who actually broke the law, and (when their puppets were found out) paid the expenses, if any, of the people whom they employed, ought to be protected by the Bill.

The Honourable Mr. MUNGULDASS pointed out that the section applied not only to dishonest masters but also to honest employers, who might unfortunately have in their service ignorant and dishonest servants.

The Honourable Mr. GIBBS said that the honest manufacturer would find it very easy to prove his honesty to the Governor in Council.

The Honourable Mr. MUNGULDASS—If it is provided that the salt manufacturer shall only be punished if he is convicted of participating in an offence I will agree to the section. But as the section now stands I think my amendment is a just one, because it will prevent an owner from being unjustly punished for offences committed by his inferior servants.

The Honourable Colonel KENNEDY felt that some modification of the clause was necessary.

The Honourable Mr. BYTHELL—As I intend to vote against the amendment I wish to say a few words in explanation. No member of this Honourable Council objects more strongly to anything in the shape of oppression than I do, but it appears to me that for the safety of the salt revenue it is absolutely necessary that some heavy penalty should be attached to a breach of this Act, even supposing the owner of a salt work not to have been actually privy to its commission. Merely to take the usual course adopted in the Excise law of confiscating the contraband article, would be no punishment at all, inasmuch as the confiscation of a few handfuls of salt would be a mere bagatelle and unworthy of being called a punishment. Under Section 59 of the Customs Act property may be confiscated if a false statement is made in connection with it, and I remember that a few years ago a clerk belonging to the firm with which I am connected committed a clerical error in declaring the weight and description of some goods we had imported. A fine of Rs. 500 was attached to the offence, and it was only after I had made a personal explanation to Mr. Reid that the fine was remitted. I mention this to show that under the Customs Act a master is liable even for the mistake of a servant. I think that in the section before us we must accept the principle of the owner's responsibility for any breach of the provisions of this Act, and I must confess for my own part that, although I think the section might be modified, it is difficult to know what penalty could be substituted for the one which it contains at present. Many of the petitioners object to the section, but I would point out that it has been modified in Select Committee since they made their objections. Indeed, I think I would have no objection to seeing this section stand as it does, if the section were altered which provides that the Governor in Council may delegate his power to any officer appointed under this Act, because I really do not think that the power to suppress a salt work should depart from the Governor in Council.

The Honourable Mr. MUNGULDASS—I could understand the argument used by the Honourable Mr. Bythell if his whole office had been confiscated for the fault of his servants, instead of a simple fine being inflicted. I think, moreover, that if the honourable member could only succeed in getting the fine remitted after making a personal representation to the Commissioner of Customs, it would be almost impossible for a poor salt manufacturer in the mofussil to obtain even a hearing.

Mr. Munguldass' amendment lost.

The Council divided on the Honourable Mr. Munguldass' amendment.

Ayes—4.	*Noes*—5.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable J. GIBBS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel M. K. KENNEDY.
The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.	The Honourable J. K. BYTHELL.
	The Honourable Colonel W. C. ANDERSON.

The motion was therefore lost.

The Honourable Mr. GIBBS said that, with reference to the remarks which were made by the Honourable Mr. Bythell, he thought some alterations in the section were requisite. If either an owner or his agent committed any violation of the provisions of the Act at a salt work, Government ought to have power to suppress the salt work; but he thought it would work severely if a similar penalty were exacted for the offence of a very inferior person employed about the works.

The Honourable Mr. NARAYAN asked if it would not do to make an owner liable if he were "cognisant" of any offence committed against the provisions of the Act.

The Honourable Mr. GIBBS—That would not do, because cognizance could seldom be proved.

The Honourable Mr. NARAYAN—Then why should a man's salt work be suppressed for an offence which cannot be proved?

The Honourable Mr. GIBBS said that in a Bill of this description it was necessary to have severe sections.

His Excellency the PRESIDENT—I think that the powers which we are taking under this section are very great, but I can scarcely object to them, because I do not believe that any smuggling can be carried on in a salt work without the knowledge of the owner. Is this an absolutely new power which we are taking?

The Honourable Mr. ROGERS replied in the affirmative.

The Honourable Mr. GIBBS—The necessity for the section is shown by the fact that last year there were no less than 500 convictions for smuggling salt, and in no single case did the owner give any information to lead to the conviction.

The Honourable Mr. BYTHELL was of opinion that the offence for which suppression ought to be resorted to should be defined. The section made it appear that suppression might ensue from a breach of any rule made in pursuance of the Act by the Governor in Council. Now these rules were not published in the Bill, and a breach of any one of them might therefore be very harmlessly committed. Moreover, a breach of the conditions of the license would make a man liable to have his salt work confiscated, although another section of the Bill declared that the license was to be liable to such alterations as the Governor in Council might from time to time direct.

The Honourable Mr. NARAYAN pointed out that the tendency of the new law would be to depreciate salt work property, because few persons would be disposed to purchase that description of property when it was liable to such extreme penalties.

His Excellency the PRESIDENT suggested that the section should be made applicable only to cases in which a person was found smuggling 20 seers or upwards out of a salt work, because such a quantity of salt could not be taken out of a manufactory without the knowledge of the licensee or his agent.

The Honourable Mr. ROGERS observed that it was stated to him that a number of women were the other day captured at Panwell each carrying away 10 seers of salt.

The Honourable Mr. GIBBS said it would be easy for a much less quantity to be taken away daily from a manufactory by individuals, so that in a short time they would accumulate a large quantity of smuggled salt.

The Honourable Mr. BYTHELL—Since the purport of this Bill is to prevent smuggling I may say that that object would be considerably assisted if the Salt Department were to pay its servants a little better than it does. Many of them were, he believed, so badly paid that they had to resort to smuggling in order to make their daily bread.

The payment of subordinates in the Salt Department objected to as being too low to secure efficiency.

The Honourable Mr. NARAYAN cordially concurred with the Honourable Mr. Bythell. The pay of a peon in the Salt Department was not equal to that of a daily labourer, and a man in charge of a salt work actually got only about Rs. 15 a month.

The Honourable Mr. BYTHELL remarked that Government could scarcely expect to get honest men in the Salt Department at such rates as these.

His Excellency the PRESIDENT—Considering all things, I think it would be sufficient for our purpose if we do away with the power of suppression and substitute for it a power to impose a fine not exceeding one thousand rupees for each offence which may be committed.

The Honourable Messrs. BYTHELL and GIBBS approved of the suggestion.

The Honourable Mr. NARAYAN objected to it, because it should be the duty of the Salt Department to prevent the necessity for such penalties by maintaining a proper preventive staff.

The Honourable Mr. GIBBS, adopting the suggestion thrown out by His Excellency the President, moved the following amendments upon the section:—That the words:—"to suppress any salt work or to suspend or withdraw the license to manufacture salt at" should be omitted, and these words substituted—"to impose a fine not exceeding one thousand rupees on the licensee of"; that the words:—"or of any breach of any rule made in pursuance thereof" should be omitted from lines 18 and 19; that the words:—"of rule or" should be omitted from line 26; and that the words:—"the conditions of the" should be inserted after "of" in line 29.

The Council agree to make an owner liable to a fine, instead of to the suppression of his salt works, for the misdeeds of subordinates.

The Council divided on the Honourable Mr. Gibbs' amendments:—

Ayes—5.	*Noes*—4.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. GIBBS.	The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.	The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.	

The amendment was therefore carried.

The Honourable Mr. NARAYAN called the attention of the Council to the objections raised against Section XXXVI. by the petitioners. He was of opinion that the Lands Acquisition Act ought alone to be applied to salt works which the Governor in Council might see fit to suppress summarily, otherwise the matter should be a simple question of settlement between an owner and the Collector of Salt Revenue. He objected strongly to the part of the section which

It is argued that summary powers to suppress salt works ought to be exercised only under the Lands Acquisition Act.

stated that the owner of a suppressed salt-work would be paid as compensation the market value of such work, "if sold free of all incumbrances, deducting the value of any of the land and of any buildings thereon which are capable of being applied to any other purpose than the manufacture of salt."

The Honourable Mr. MUNGULDASS—If Government wish to put this section in force it will be only to protect the public revenue and for no other purpose. That being the case, the public revenue ought to pay a reasonable price for the advantage it would be gaining under the section. The Government of India has already passed an Act to enable Governments to acquire property for public purposes. This ought to be sufficient, and as I cannot see the good of the section as it now stands, I beg to move that Section XXXVII. be omitted, and these words substituted—"The Governor in Council may purchase any salt-work in the Presidency of Bombay under Act X. of 1870, or any other Act which may be passed hereafter for the object of acquiring land for public purposes."

The Honourable Colonel ANDERSON approved of the section as it stood, and thought that as Government did not want the land or buildings of suppressed salt-works, these being of no use whatever to Government, that part of the section deducting the value of such lands and buildings from the compensation to be given to an owner was only just.

The Honourable Mr. MUNGULDASS—I must disagree with the honourable member. Government has allowed salt-work proprietors to invest their money in that description of property, and if it wishes, for the sake of public revenue, to suppress a salt work, I repeat that it is only fair that public revenue should pay the owner in full, and Government may then do with the land and buildings what it pleases. If a person has invested his money in salt-pans, doubtless he never intended to grow rice, and I do not think he should be compelled to do so by this section, for, when his salt-pans are suppressed, the land will be as useless to him as it would be to Government. If he chooses to come to any arrangement regarding his lands and buildings, good and well; but he should not be compelled by this section.

The Honourable Colonel ANDERSON—No hardship will be done to an owner. He originally cultivated rice upon his lands before he commenced to manufacture salt. Government says that it does not wish him to manufacture salt upon the land any longer, and he simply reverts then to his former occupation.

The Honourable Mr. MUNGULDASS—In many instances these lands never were paddy lands.

The Honourable Colonel ANDERSON—This section will prevent Government paying a fancy price for lands and buildings which can be of no use to it.

The Honourable Mr. NARAYAN—And they very probably will be of no value to an owner after his salt manufacture has been suppressed.

The Honourable Mr. GIBBS—I think that the honourable members who oppose the section are fighting for a shadow, because if, as they say, the land will be of no value to an owner after his salt-work has been suppressed, then nothing will be deducted from the amount of compensation which is to be given to him.

His Excellency the PRESIDENT—I can only say that when this Bill was under preparation the greatest possible pains were taken in considering this clause, especially as to the amount of compensation which should be given to owners whose salt-works may be suppressed. It is but just to the Honourable Mr. Rogers to mention that he concurred

in the opinion expressed in the Government of India's letter to me, that the section presents an extremely difficult appearance. It says that the Governor in Council is to suppress any salt-work on payment as compensation of the market value of such work. I have not the slightest idea in what manner, either under this Act or under the Lands Acquisition Act, the market value of such a salt-work is to be fixed. Its value to an owner may be considerable, considering the facilities which it affords for smuggling and the profits he may have gained from smuggling. How then can you tell the market value? If an owner will say how much he succeeds in smuggling annually, we may get at the approximate value of the salt-work to the owner; but as he is not likely to do so, it is difficult to see what effect the use of the phrase "market value" will have.

The Honourable Mr. NARAYAN—Not only would the value of the land but also the "value of any buildings thereon which are capable of being applied to any other purpose than the manufacture of salt" be deducted. These buildings, as well as the land, will be practically of no use to the owner of a suppressed saltwork. It may be urged that the lands will be of some value to the owner, because he may grow paddy, but why compel him to do so, if he says "I do not wish to cultivate rice—you have suppressed my salt-work, and you may have the lands now"?

The Honourable Mr. MUNGULDASS—I was a proprietor of a salt-pan for fifteen years, and if during that time it had been attempted to make me produce rice instead of manufacturing salt I would certainly have objected.

The Honourable Mr. BYTHELL—I agree that the substitution of the Lands Acquisition Act for this section would be advisable. By doing so, no injustice would be done to Government, because the adjudging court would not take into its consideration any unlawful value which a property may have acquired through smuggling.

His Excellency the PRESIDENT—I may mention that there was a proposal made, when this Bill was first under consideration, that Government should, on suppressing a salt-work, pay the owner a sum equivalent to twenty years' ascertained profits of the work.

The Honourable Mr. GIBBS said there would be great practical difficulties in adopting such a course. Sale books in connection with each salt-work had not been kept for so long a period back as twenty years.

The Honourable Colonel KENNEDY said it would be easy to give an owner twenty times the annual profits of the average of the last three years of the existence of the salt-work.

The Honourable Mr. BYTHELL remarked that as it was imperial revenue that was concerned, and the Supreme Government desired the introduction of the Lands Acquisition Act, the Council might very well agree to the Supreme Government's suggestion.

The Honourable Colonel KENNEDY said he would vote for the introduction of the Lands Acquisition Act.

After some further consideration, the section was amended so as to read as follows:—

"The Governor in Council may, at his discretion, with a view to the summary suppression of any salt-work within the Presidency of Bombay, direct the acquisition of such salt-work under the provisions of Act X. of 1870, or other law in force for the time being, for the acquisition of land for public purposes. Nothing contained in this section shall affect the powers vested," &c.

The Council agree that salt-works shall be suppressed only under the provisions of the Lands Acquisition Act.

Sections XXXVIII. and XXXIX. were struck out, being unnecessary in consequence of the alterations which were adopted in Section XXXVII.

His Excellency the PRESIDENT said that Section XL. was objected to by Mr. Abdool Gufur wulud Mynodeen and his 294 co-signatories, who said: "Your Excellency's petitioners cannot do better than refer your Excellency to the evidence given by Lord Lawrence before the Finance Committee in England on the subject of the salt revenue. Already there are men in the interior who on account of the high price of salt there are extremely economical in its use, and consequently subject to various diseases. Your Excellency's petitioners therefore earnestly pray this provision be omitted from the Bill."

Reverting to Section XLI., His Excellency the PRESIDENT mentioned that several persons wished the rules to be published in the Act, but it would be impossible to do so as Tanna, Guzerat, and parts of the Concan had different customs, which would require to be governed by special rules.

The Honourable Mr. MUNGULDASS suggested that the best plan to adopt would be to draft rules first and then submit them to the consideration of the persons interested.

His Excellency the PRESIDENT remarked that that could be done without stating it in the Bill.

The Honourable Mr. MUNGULDASS thought that fees should not be levied on licenses because the object of the Bill is to prevent the smuggling of salt and not to increase the salt revenue, and therefore he proposed that the words "and may levy fees on such licenses" of the section should be struck out.

The Honourable Mr. BYTHELL concurred.

After some discussion the words "and may levy fees on such licenses" were struck out from lines 8 and 9.

Regarding Section XLII., the Honourable Mr. MUNGULDASS said—Sir,—This section lays down that all salt exceeding 20 seers in quantity found in any building, enclosure, or premises not licensed shall be held to be contraband. For this reason this section is objectionable. I have already expressed my opinions upon this matter; therefore I need hardly repeat them. The limits within which the prohibition of possessing more than 20 seers of salt is made applicable are most extensive, inasmuch as the section lays down that no one should possess more than 20 seers of salt within a distance of ten miles from any salt work, land customs station, government salt warehouse, or port or place declared and appointed for the import or landing of salt. I see from Mr. Pedder's report that Government intends to establish salt depôts at Poona, Surat, Broach, and other populous places, so that the generality of people will come under this prohibition, and therefore this section will result in a very great hardship being inflicted upon householders; if the distance is reduced to a mile or so perhaps the section will be more reasonable.

Mr. Munguldass objects to the provisions that no person shall be allowed, without a license, to keep more than twenty seers of salt within a distance of ten miles from certain places.

The Honourable Mr. ROGERS—Can smugglers not travel more than a mile or so in a night?

The Honourable Mr. MUNGULDASS—In the first place Government ought to have a proper preventive staff to prevent smuggling before interfering with the private rights of the people.

The Honourable Mr. GIBBS was of opinion that 20 seers was enough of salt to allow in a private house at one time.

The Honourable Mr. MUNGULDASS—I do not think it is enough. All well-to-do native families require 20 seers of salt every ten days. Besides on certain ceremonial occasions, such as marriages, deaths, &c., Hindoo gentlemen require as much as 20 seers in a day.

The Honourable Mr. GIBBS—In Bengal the limit is five seers.

The Honourable Mr. MUNGULDASS—It is no reasons that because there is an objectionable law in Bengal we should introduce it here, and it may be one of the grounds why the consumption of salt in that province has been greatly reduced.

His Excellency the PRESIDENT—I do not think this section will practically be worked harshly. A man's house can only be searched upon a search warrant, and a magistrate would scarcely grant a warrant without being assured that there was need for it.

The Honourable Mr. NARAYAN—Upon a written application from the Collector or other officer appointed under this Act a magistrate would be bound to give such a warrant.

The Honourable Mr. MUNGULDASS—Besides, a majority of the lower grades of magistrates are ill-paid or uneducated and they have no knowledge of English, and therefore it does not follow that they would look into the merits of every application for a warrant made to them. I respectfully submit that this section will expose the people to annoyance and hardship.

The Honourable Mr. ROGERS—Before a man's house can be searched there must be cause to assume that there is contraband salt in it.

The Honourable Mr. NARAYAN—I would point out that the Government is already establishing storehouses in Guzerat as near towns as possible, and yet according to this section householders in these towns would not be allowed to keep such reasonable quantity of salt as they choose. I think that if under the Excise law in England a gentleman may keep as much wine as he pleases in his cellars for twenty or thirty years, Hindoo gentlemen might well be allowed to keep what quantity of salt they require.

The Honourable Mr. ROGERS—In England the duty upon such wine would be all paid.

The Honourable Mr. NARAYAN—And so would the duty be paid upon salt in this case.

The Honourable Mr. GIBBS—I believe that where there will be found one person who requires as much salt as the Honourable Mr. Munguldass does, there will be found 100 who do not.

The Honourable Mr. MUNGULDASS—I assure the honourable gentleman that many undivided Hindoo families require quite as much. Perhaps His Excellency is not aware that during a wedding or a death ceremony a native gentleman has often to feed 3,000 or 4,000 people, and the quantity of salt then used must be very great.

The quantity of salt which may be kept within ten miles of certain places increased to forty seers.

After some further discussion, the Council agreed to alter "20" to "40" in the first line of the section; and to insert "or order" after "permit" in the third line.

The Honourable Mr. NARAYAN did not think the Council ought to agree to Section XLIII. The present Bill, he said, was stringent enough without the Bengal Act being introduced.

His Excellency the PRESIDENT mentioned that the Government of India was of opinion that the retention of the section would lead to confusion, or at all events inconvenience.

The Honourable Mr. BYTHELL—The Bengal system is entirely different from the Bombay method of collecting salt revenue, and if the Bombay Government wish to introduce that system in Bombay a special Bill should be introduced. It is not right in principle to give Government power to apply any portion or the whole of the Bengal Act to this Presidency merely by making an order in the *Government Gazette*. If the very stringent Act now before the Council prove insufficient, another Bill to introduce the Bengal system can be brought forward.

The section was struck out.

Regarding Section XLIV. the Honourable Mr. BYTHELL said—This is a section which is objected to very strongly in some of the petitions, on the ground that the export trade to Calcutta always takes place between June and September. I believe, however, that it is not the intention of Government to prevent any salt from being exported to Calcutta. I notice that the petition which is signed by Abdool Gufur wulud Mynodeen and 294 others says:—"Section 40 empowers the Governor in Council of Bombay to prohibit the removal of salt for any period between the 15th June and the 15th September. Now the period above indicated is the one during which there is the greatest demand for salt from the Calcutta merchants, owing to the very low rate of freight which the ship-owners, who use the salt as ballast, charge them. It would therefore be inexpedient to prohibit the rem oval of salt during these months. If, during the period from 15th June to 15th September the exportation of salt is prohibited, even where there is a demand for it, and if that very same salt afterwards remains undisposed of for two years it is liable to be destroyed under Section XL. It is evident that the owners will suffer loss, for which no one but Government is to blame." The petition signed by Krishnajee Babun Bhoera and eighty others states that "if this section were agreed to it would be tantamount to forbidding the exportation of salt to Calcutta from Matoonga, Trombay, and other places in the vicinity of Bombay."

The provision giving power to close salt works between the 15th June and 15th September objected to on the ground that all the salt trade between Bombay and Calcutta takes place within that period.

The Honourable Mr. GIBBS—There are certain salt works which during the period between the 15th June and 15th September do nothing whatever, and unless we have power to close these altogether, a large and expensive preventive establishment will require to be maintained. Now this section will enable the Collector to close works of that description and so effect a saving in the public revenue.

It is explained that the use of the section is to prevent the expense of keeping up preventive estabishments at certain salt works doing little or no business during the monsoon.

The Honourable Mr. MUNGULDASS—Why should Government seek to close these works? If a salt work is a man's own property surely he ought to be allowed to sell salt when he pleases.

The Honourable Mr. GIBBS—We wish to save the general imperial expenses for preventive officers.

The Honourable Mr. MUNGULDASS—At the expense of the salt work owner?

The Honourable Mr. GIBBS—It will not be a loss to the owner, because he will be doing no business.

The Honourable Mr. ROGERS—Moreover, the forbidding of the removal of salt from a salt work must be notified in the *Bombay Government Gazette*, and if anything were considered a hardship by an owner he would raise such an outcry in the Press as would prevent the section from being wrought oppressively.

The Honourable Mr. MUNGULDASS—I would point out that by this section the whole Calcutta trade may be stopped.

The Honourable Mr. BYTHELL here mentioned that he had just learned that the refusal of the Bombay Government to acknowledge the certificates of the Calcutta Board of Revenue, with respect to loss in cargoes of salt during voyages between Bombay and Calcutta, was in direct contravention of a notification issued by the Bombay Customs authorities to the effect that such certificates would be acknowledged in Bombay. This agreement seemed to have been arbitrarily broken by the Salt Department authorities, and as a matter of fact several suits were about to be brought against the Bombay Government to test the legality of its proceedings in the matter.

The Honourable Mr. ROGERS—As this point has been brought forward now, I may briefly explain how the circumstances happened to which the honourable member has alluded. The Collector assures me that there is no such notification or guarantee in existence, and that the Bombay authorities never agreed to accept the Board of Revenue certificates.

The Honourable Mr. GIBBS, recurring to the discussion of the section, said it might well be passed, as it was only intended to apply to salt-works doing no business.

The Honourable Mr. MUNGULDASS—Then why not distinctly say so in this section?

The Honourable Mr. GIBBS—It would be quite impossible to put everything into the Bill which may be necessary. Does the honourable member suppose that the Government of Bombay would shut up any place from which revenue could be extracted?

The Honourable Mr. BYTHELL—In the export trade to Calcutta the Bombay Government does not get revenue.

The Honourable Mr. GIBBS—At all events the Imperial Government does.

The Honourable Mr. BYTHELL—Whatever proceedings Government may adopt here, it does not appear to me that the Calcutta Government will lose, for there are other countries quite willing to supply her with as much salt as she wishes. The only effect of stopping the trade here would be, that while Calcutta would get her revenue the same as usual, the salt trade of Bombay would be transferred to foreign countries.

His Excellency the PRESIDENT suggested that consideration of the section should stand over.

Consideration of the section was postponed.

Referring to Section XLV. the Honourable Mr. NARAYAN said—This is a section which is objected to by many of the petitioners, because they do not think that the Collector should have power to determine the mode in which salt should be packed before removal from a salt-work, and the size and weight of the packages in which it shall be removed. The whole

secret of the matter seems to be that the Collector wishes to have power to make manufacturers pack their salt in bags—a process to which they have never been accustomed hitherto.

The Honourable Mr. ROGERS—In exporting salt to Calcutta, it is not weighed, but simply shovelled from boats on board the ships. This system leads to an immense amount of smuggling, and therefore it is very necessary that the Collector should have power to determine in what way salt should be put on board ships.

The Honourable Mr. NARAYAN—This is done at the expense of the owner.

The Honourable Mr. ROGERS—It will only be the expense of purchasing bags once.

The Honourable Mr. NARAYAN—Bags will have to be purchased a great deal oftener than once.

The Honourable Mr. MUNGULDASS thought the provision was a great hardship.

The Honourable Mr. GIBBS pointed out that the bags could be used again after they had assisted to convey salt to a ship, and mentioned the instance of some Brinjarees who had taken salt up-country in bags and returned with gram in the same bag.

The Honourable Mr. NARAYAN said it was a very different description of salt which Brinjarees carried compared with salt which was taken to Calcutta.

The Honourable Colonel KENNEDY said that as salt was weighed at the salt-works before it was removed, he did not see the necessity for taking such precautions to get the salt placed on board a ship and re-weighed.

The Honourable Mr. NARAYAN quoted the remarks of Mr. Pedder relating to carrying salt in bags, from which it appeared that the Calcutta merchants objected to the same system so strongly, that he (Mr. Pedder) could not feel justified in urging its adoption either in Calcutta or Bombay.

His Excellency the PRESIDENT—That system relates to sending salt in bags all the way to Calcutta, and that is widely different from what is intended here.

The Honourable Mr. BYTHELL—I may mention that this season there were ten ships in Bombay in the carrying trade. The smallest quantity taken was by the "Glenroy"—8,000 maunds; and largest by the "King George"—39,000 maunds.

The Honourable Mr. NARAYAN—It seems to me that the intention in this section is simply to kill trade. I think it would be easier and better for the Salt Department to employ good preventive officers than to lay upon owners such burdens as this section imposes.

The Honourable Colonel KENNEDY—It appears to me that putting the salt in bags will necessarily increase the price of salt.

The Honourable Mr. NARAYAN—It will just double the price of salt.

The Honourable Mr. MUNGULDASS—I beg to move that lines 17, 18, 19, and 20 of the section be struck out.

After some discussion the Council agreed to the amendment without dividing.

The Honourable Mr. MUNGULDASS—A number of the petitioners object to the ninth clause of this section, which gives the Governor in Council power to make rules for the conservancy of any salt-work. I also agree with them, because it may lead to unjust interference with their salt-works and put owners to great expense, and I beg to move that it be struck out.

A brief discussion here ensued, and then the vote was taken upon the motion of the Honourable Mr. Munguldass :—

Ayes—3.	*Noes*—6.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable J. GIBBS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel M. K. KENNEDY.
	The Honourable J. K. BYTHELL.
	The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
	The Honourable Colonel W. C. ANDERSON.

The motion was therefore lost.

The Council decided to strike out Clause 6, and also all of Clause 7 after the word "land" in line 39.

Referring to Section XLVI., the Honourable Mr. BYTHELL said—I do not think that the need for destroying salt is so great that power to do so should be retained in this section

The Honourable Mr. NARAYAN—This very sifted and refuse salt which is spoken of was sold in 1870 for about three times its normal price.

The Honourable Mr. BYTHELL enquired what was the disadvantage of allowing that description of salt to lie in the salt-works.

The Honourable Mr. ROGERS—I am informed that that salt is quite unsaleable under ordinary circumstances. It encumbers the ground, and a deduction has always to be made by the Department in respect of salt being left upon the ground.

The Honourable Mr. MUNGULDASS—A double loss upon the owner will be inflicted, because not only will his salt be destroyed, but he will be compelled to pay the expense of doing so.

The Council resolved to postpone consideration of the section.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Poona, 7th October 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Poona on Wednesday, the 8th October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, BART., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable Colonel W. C. ANDERSON.

The Bombay Salt Bill considered in detail.

The Council proceeded with the consideration of the Bombay Salt Bill in detail.

His Excellency the PRESIDENT proposed that Section 46 of the Bill be amended as follows:—"The Collector of Salt Revenue may at his discretion call upon the licensee of any salt work to store in heaps any sifted or refuse salt which may be lying on such work, or at the option of the licensee to destroy the same; and if such licensee shall fail either to store in heaps or to destroy any such salt within ten days from the receipt of the order so to do, the Collector may cause such salt to be destroyed, and may recover the costs thereof from the licensee of the salt work in manner prescribed for the realisation of revenue," &c. His Excellency remarked that all he wished was to get this salt into a position which would not disagree with the position of the salt alluded to in Section XLVII.

The amendment was agreed to.

The Honourable Mr. GIBBS suggested that the words "re-heap and" should be inserted after "to" in line 7 of Section XLVII. He explained that the section meant that an owner would have to gather his salt together instead of allowing it to be spread all over the works. By the insertion of the words suggested, an officer in a salt work would at once be able to see whether any heap had been tampered with.

The amendment was agreed to.

Before "and" in line 10 of Section XLIX. the words "for which purpose only the license shall continue in force" were inserted.

Adverting to Section L., His Excellency the PRESIDENT mentioned that the Government of India wished to know whether proprietors of salt works not complying with the requests referred to in Section L. would be liable to criminal prosecution as well as to payment of costs.

The Honourable Mr. GIBBS said that there was no criminal penalty for non-compliance either with the terms of Section L. or LI. An exception in favour of these clauses might be more definitely expressed when the Council came to consider the penal clauses.

The Honourable Mr. NARAYAN wished the limitation term mentioned in the section to be extended from ten to fifteen days or three weeks, because in the case of a death or like event in the family of a salt proprietor, it would put him to great inconvenience to carry out a salt officer's orders regarding repairs within so short a time as ten days. Some of the petitioners were of opinion that this section and the following one were inconsiderate and uncalled for. The petition signed by Krishnajee Babun Bhoera and eighty others submitted that already it was manifestly to the interest and benefit of the proprietors themselves to take all reasonable precautions for the protection of their salt works getting into disrepair, and that interference in this respect was unnecessary. They had further submitted that the delegation of such a power as that contemplated to the subordinate officials of the Salt Department would be very injudicious, inasmuch as it would be most liable to abuse from motives of private pique or corruption, and thus be made an engine for inflicting much unnecessary trouble and expense on proprietors.

The Honourable Mr. GIBBS said that the section was quite necessary. He was told that in Canara, where salt was stored in godowns, it was not an unfrequent thing to find double doors to the warehouses, which were carefully locked, although there was a hole in the wall out of which anybody could extract salt.

The Honourable Mr. ROGERS remarked that a good many objections had been taken to the section on the ground that it gave too much power to subordinate officers in salt works. It might therefore be advisable to say that the powers mentioned in the section should not be capable of being exercised by an officer of lower rank than a Sir-Carkoon or Darogah.

The Honourable Mr. GIBBS approved of the suggestion. It would be impracticable to vest the powers in the Collector alone, because the Collector could not be everywhere in the Presidency when repairs on certain salt-works were necessary.

In line 3 "a Sir-Carkoon" was substituted for "an officer"; and in line 16 "fifteen" for "ten."

In lines 3, 4, and 5 of Section LI. the words "officer in charge of a salt work" were struck out and "a Sir-Carkoon" substituted; and on the suggestion of the Honourable Mr. Narayan "20" was substituted for "14" in line 12.

Referring to Section LIII., the Honourable Mr. NARAYAN disapproved of the powers which were here given over possessors or carriers of salt suspected to be contraband, to make them weigh and unload on demand by an officer, and which powers were proposed to be exercised at the expense of the owners. The majority of the petitioners objected to this section. The Matoonga petitioners humbly submitted :—"it is not unreasonable to suppose that cases may occur in which the suspicion which actuates the ordeal of weighment, &c., may prove to be utterly groundless, either from defective information, or from false reports set afloat by evil designed persons inimical to the owner of the salt or to the person in charge of the same for the time being. Assuming this probability, your petitioners would further humbly submit that it would be positively unjust in such cases to recover from the innocent party any cost the officer concerned might see fit to incur, and that considering the unmerited delay, inconvenience, &c., which the ordeal in question might necessarily inflict, the doing so would certainly be adding insult to injury." Mr. Byramjee Jeejeebhoy and his co-petitioners also took the same objection to the section."

Ought suspected parcels or loads to be examined at the expense of owners if an examination proves the suspicion to be groundless.

The Honourable Mr. ROGERS—According to the English Customs law people are required to open packages, &c., at their own cost.

The Honourable Mr. BYTHELL—The Commissioner of Customs in Bombay has a similar power, and he very often puts it in force.

The Honourable Mr. NARAYAN—In those cases where a cargo is in a ship's hold, it would be a hardship to have it all turned out and re-weighed again at the owner's expense.

His Excellency the PRESIDENT—There is no limitation here as to the circumstances under which an officer may insist upon examinations. Apparently he may command any cart travelling along a highway to be stopped, although no grounds for suspecting it existed.

The Honourable Mr. ROGERS—It is very necessary that we should have the power mentioned in the section.

The Honourable Mr. NARAYAN—That may be, but I think that when a preventive officer turns out to be in the wrong the owner should not be compelled to bear all the expenses of the search.

His Excellency the PRESIDENT—I do not think that a man who turns out to be perfectly innocent should be compelled to pay the costs of proceedings adopted against him by an officer appointed under this Act.

The Honourable Mr. GIBBS—It is the custom already that when a person wishes to get a box of any thing out of the Custom-house, the officers unrope it and unpack it so as to examine its contents, and he then must re-pack it and close it up again at his own expense.

The Honourable Mr. NARAYAN—The Custom House officers have their own servants standing by, and they do the re-packing for nothing.

The Honourable Sir JAMSETJEE JEJEEBHOY agreed with the Honourable Mr. Narayan as to the practice observed at the Custom House.

The Honourable Mr. ROGERS—There is one great practical difficulty in the way of altering this section. Where a cart may be unpacked, a Custom House officer may have no money. It might happen that an owner would be stopped in the Panch Mahals jungle, and on claiming for demurrage in such a place it would be impossible to agree with his request. The best plan for the Council to adopt is to leave the section alone, and trust to the operation of the penal clauses against officers resorting to oppressive practices.

His Excellency the PRESIDENT suggested that this course would give no satisfaction to a man having his cart unjustly stopped.

The Honourable Mr. GIBBS—If the whole cost of the proceedings is to be borne by Government, an officer will never be able to get the slightest assistance from an owner to inspect a cart or package.

His Excellency the PRESIDENT—I have no recollection of seeing it laid down anywhere that a man must do work for Government for nothing when Government wishes to protect itself. The analogy of Custom House practices is not exactly correct, because the Custom House is a place to which a person goes with the definite purpose of transacting business; but by this Act we would be establishing an aggressive Custom House in every part of the country to which a man could take a cart.

The Honourable Mr. ROGERS—I am afraid this is one of the evils of the excise system which we cannot get rid of.

The Honourable Mr. NARAYAN—I repeat, have the power of examination by all means, but do not throw the costs of groundless examinations upon innocent men.

The Honourable Colonel KENNEDY—By this section it seems to me that an officer of the Salt Department may do what he pleases without let or hindrance.

The Honourable Mr. ROGERS—If the section is altered it will scarcely improve matters, for a Government peon may do as he pleases with persons who do not know the law.

His Excellency the PRESIDENT—The possibility of corruption is no reason for such legislation as this. I think we should leave out the latter part of the section altogether. I cannot agree to any legislation which might compel injustice to be done to an innocent man.

The Honourable Mr. GIBBS—This section simply contains the practice which is carried out every day at present, and hitherto there has not been a single petition received against the practice.

The Honourable Mr. NARAYAN—I submit that there is no reason for our legislating to perpetuate what may prove a source of hardship.

His Excellency the PRESIDENT—Moreover, I cannot see why a cartman or owner of goods should be compelled to do labour for nothing if he is perfectly innocent of what he may be suspected of. Surely such a person's time and labour are valuable to him. It has been said that a suspected man should be taken to a chowkey, where no expenses of unpacking would be thrown upon him, but supposing an innocent man has no business in or near any chowkey, and may in fact be going far away from it why should he be compelled to go so much out of his way?

The Honourable Colonel ANDERSON thought that no greater hardship would be inflicted upon people than was already inflicted under the Customs' House Act.

The Honourable Mr. NARAYAN—It is clearly adding injury to insult to ask any man to pay for what he is not guilty of.

His Excellency the PRESIDENT—Certainly. And though we wish to put a stop to smuggling I do not think we should be justified in permitting this.

The Honourable Mr. ROGERS—A great deal of smuggling takes place along our frontier, and unless we give officers appointed under this Act power to make instant examinations, the carts or suspected goods will be over the borders and out of our jurisdiction in a very short time.

His Excellency the PRESIDENT—I think that if smuggling takes place to such an extent along our frontier it will be well worth our while to find it out and pay for it.

The Honourable Mr. ROGERS—Already, according to the Customs Act, a Custom House officer may board any vessel and examine all the goods on board.

The Honourable Mr. BYTHELL read the section referred to.

His Excellency the PRESIDENT—That section does not say that the ship has to pay for the examination.

The Honourable Mr. BYTHELL asked who, then, would have to pay.

His Excellency the PRESIDENT—It is implied that Government must pay for its own operations. As to the matter before us nobody has objected to grant the power of search. What is objected to is making innocent people pay for what is not their own fault.

The Honourable Mr. NARAYAN—In the Customs Act there is a section which says that no Custom House officer shall make a search without having reasonable grounds to believe that such search is necessary. Any officer acting otherwise is liable to a fine not exceeding Rs. 100.

The Honourable Mr. BYTHELL—If the Government of India will pay the costs in cases in which search has been made I shall be very glad. But I merely wish it to be understood that already the merchants in Bombay are subject to the powers complained of in the section before us. I find that Section 187 of the Customs Act lays it down that an officer may cause suspected goods to be unshipped and transferred to another place than the vessel for weighment or examination, and that the opening, unpacking, unshipping, transferring, or removing of the suspected goods shall be performed by and at the expense of the owner or consignee of such goods.

After some additional remarks from honourable members,

His Excellency the PRESIDENT thought no harm could be done if the following words were omitted from the end of the section :—"and to recover the costs thereof from the person in whose possession or under whose control they were found, and in default of payment to detain the said salt, vessel, package, or goods, or such portion thereof as he may consider sufficient, and to sell the same and recover the costs from the proceeds of the sale."

The Honourable Mr. NARAYAN—I think His Excellency's amendment a good one, as it will leave the whole question of payment open.

The amendment was agreed to.

The Honourable Mr. BYTHELL—I merely wish to point out that the change affords no practical security. The Honourable Mr. Narayan seems to be satisfied with an amendment which is no amendment.

His Excellency the PRESIDENT observed that it was a compromise.

The Honourable Mr. NARAYAN—Of course it is, and I like it so far, although I am not completely satisfied with an amendment which virtully leaves the section unaltered

The Honourable Mr. BYTHELL—It seems to me that the honourable member is satisfied with the amendment.

The Honourable Mr. NARAYAN—The honourable member, at all events, seems to be satisfied when the whole costs are put upon the owner.

The Honourable Mr. BYTHELL having answered in the negative,

The Honourable Mr. NARAYAN said that that had been the drift of the honourable gentleman's argument all along.

The section was agreed to as amended.

His Excellency the PRESIDENT asked whether the penal clauses in Section LIV. were as a whole heavier than those at present existing.

The Honourable Mr. ROGERS answered in the affirmative, and said that the present penalty was three months' imprisonment or a fine of Rs. 500. The penalties adopted in the present Act were taken from the Abkaree Act of 1852.

In line 8 the words "liable to confiscation" were substituted for the word "confiscate."

Adverting to Section LVII. the Honourable Mr. NARAYAN said—I think that this section should apply only to persons "having reason to believe" that they are removing or transporting contraband salt, otherwise a coolie, who knows nothing whatever of what he is carrying, may be punished by a magistrate for being "concerned" in the removal or transportation.

The Honourable Mr. ROGERS—I think that the magistrates may be credited with a little common sense. They would not punish a man whom they believed to have been innocent of offending against the Act.

The Honourable Mr. NARAYAN—But as this section stands I do not think that a magistrate would have any other option in the matter but to convict, because the penalty is placed upon "whoever shall be concerned in passing, removing, or transporting contraband salt."

His Excellency the PRESIDENT—Is not a thousand rupees too heavy a fine, seeing that everything concerned in the removal of salt may be confiscated and the license be withdrawn from the owner?

The Honourable Mr. GIBBS—Under certain circumstances the fine would not be too heavy, because people who are not licensees and therefore have no licenses to lose, may, while actually carrying salt, have nothing to be confiscated except the salt or the bags or baskets in which they may be carrying it.

The Honourable Mr. NARAYAN—One of the petitions before the Council distinctly points out that in this section the essential element of guilty knowledge on the part of persons removing contraband salt has been entirely ignored.

His Excellency the PRESIDENT—The Government of India is not in favour of these penal clauses; and as to increasing the penalties much above what they are at present, I think that if those primarily interested in the revenue, viz., the Government of India, do not approve of this course, we are not required to insist upon it.

The Honourable Mr. ROGERS—During the season there were 100 persons in jail at Canara convicted of the offences to which these penalties apply, and that shows that the Penal Code is not sufficient to restrain people from committing these offences.

The Honourable Mr. GIBBS thought that after all it might be as well to reduce the money penalty in Section LVII. from Rs. 1,000 to Rs. 500.

The Honourable Mr. NARAYAN—Perhaps His Excellency would permit me to move that the words "which he knows or has reason to believe to be contraband salt" be inserted after "salt" in the third line.

The Honourable Mr. ROGERS—Surely this is unnecessary. In this very city of Poona a case occurred some time ago in which a coolie woman who had been engaged to carry some contraband spirits was acquitted because she did not know what she was doing. This occurred under the Abkaree Act, and surely a similar just interpretation would be put upon this section by other magistrates.

The Honourable Mr. GIBBS—The Penal Code lays it down that nothing "is an offence which is done without any criminal intention or knowledge of the doing of a lawful act by unlawful means without proper care and precaution."

His Excellency the PRESIDENT suggested that the section should be made applicable only to principals concerned.

The Honourable Mr. GIBBS thought this would be impracticable, as it would involve continual litigation to prove who were principals.

The Honourable Colonel KENNEDY thought that the section as at present constructed might work too severely. A man passing along a road might say to a coolie, "Here is a load of salt. Come and help me to carry it." The coolie might do so, the salt might be contraband, and yet by this section he would be punished for being concerned in the unlawful transportation of contraband salt.

The Honourable Mr. GIBBS—Perhaps we might allow the coolie to be punished under the minor sections of this Bill. What we want is to punish the principal heavily, and I dare say it would be unadvisable or useless to provide for a magistrate sentencing a coolie to six months' imprisonment or to pay a fine which may extend to Rupees 1,000.

The Honourable Mr. NARAYAN—It may save time if I move at once that we insert in line 3 after "salt" the following words, "which he knows or has reason to believe to be contraband," and that the word "contraband" before the word "salt" be omitted.

The Council divided on the Honourable Mr. Narayan's amendment :—

Ayes—5.	*Noes*—3.
The Honourable Colonel M. K. KENNEDY.	The Honourable A. ROGERS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable J. GIBBS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel W. C. ANDERSON.
The Honourable J. K. BYTHELL.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	

The amendment was therefore carried.

In line 8, "500" was substituted for "1,000."

The section was then agreed to as amended.

The Honourable Mr. NARAYAN moved the insertion of the word "wilful" before "breach" in line 1 in Section 59, because this section referred to an infringement of any of the rules made by the Governor in Council which might be published hereafter.

The Honourable Mr. BYTHELL thought the changing of the latter part of the section so as to make it permissive would meet the case.

The Honourable Mr. GIBBS—This section will do if we strike out the end of the section from after the word "prescribed" in line 7, and insert the words, "shall be liable to fine not exceeding Rs. 200, or in default to imprisonment of either description which may extend to one month."

The Council divided on the Honourable Mr. Narayan's amendment :—

Ayes—3.	*Noes*—5.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable A. ROGERS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable J. GIBBS.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	The Honourable Colonel M. K. KENNEDY.
	The Honourable J. K. BYTHELL.
	The Honourable Colonel W. C. ANDERSON.

The amendment was therefore lost.

The Honourable Mr. Gibbs' amendment was then agreed to.

Regarding Section LX. His Excellency the PRESIDENT said—Why make this section so severe? The Bill says that whoever being a public servant as defined in the Indian Penal Code "shall be guilty of a breach of any of the provisions of this Act," &c.; and it will be observed that by these words any man a public servant not having anything to do whatever with salt manufactories would be liable to the heavy penalty which is here laid down.

The Honourable Mr. ROGERS said that the section had merely been meant to apply to servants of the Salt and Preventive Departments.

The words "as defined in the Indian Penal Code" were struck out of lines 1, 2, and 3 and "appointed under this Act or employed in the Revenue, Customs, or Police Departments" substituted.

Referring to Section 63, His Excellency the PRESIDENT remarked—This is one of those sections which the Government of India does not approve of. His Excellency the Governor General in Council considers that the power of inflicting the penalty of imprisonment should be vested only in Magistrates, instead of any officer appointed under this Act being allowed to exercise it.

Power to punish with imprisonment to be vested only in Magistrates.

The Honourable Mr. GIBBS—I do not think that this Council has power to permit any of these officers to imprison.

The Honourable Mr. GIBBS read a section from the Customs Act of 1863, showing that when a penalty was adjudged against any person under the Act by any officer under the Act, it shall be lawful for such officer, if the penalty be not paid, to levy the same by the sale of goods belonging to such person in his charge or in that of any officer of the Salt Department. When such officer failed to realise the unpaid amount of such penalty from the goods of such person, it should be lawful for such officer to notify to a Magistrate the name and residence of the person and the penalty unrecovered, and the Magistrate shall proceed to enforce the payment in like manner as if the penalty had been adjudged by himself.

The Council thought this section would be appropriate for the Bill under consideration, and accordingly Section 224 of the Customs Act was introduced as a new section after Section LXII.

His Excellency the PRESIDENT asked whether it was intended that the Collector may confiscate without obtaining a warrant to do so?

The Honourable Mr. GIBBS answered in the affirmative, and said that immediate action was required in the case of capturing contraband salt, nevertheless, the liberty of the subject was not in any way affected. This was the state of the law as it stood at the present moment.

Referring to Section 66, His Excellency the PRESIDENT suggested that no reference to actions should be made in the section.

Lines 1 and 2 were struck out, and the beginning of the section made to run thus—"No suit or other proceeding," &c.

The following section was added to the Bill :—

Section LXIX.—It shall be lawful for the officer conducting an inquiry under Section 18 of this Act to take evidence on oath or affirmation, and in Sections 193 and 228 of the

Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

The Honourable Mr. GIBBS—We have altered Section XXIII. so as to suit the case of persons possessing sunnuds. The use of the words "hereditary right" may lead to some considerable difficulty, and it is suggested that the section should be made to apply to "any person who may establish by virtue of any sunnud granted by the British or any former Government 'a special and permanent right to manufacture.'"

His Excellency the PRESIDENT—I have no objection to the alteration, but we may consider it more fully on the third reading.

His Excellency's suggestion was agreed to.

The further consideration of Section XLIV. was postponed until the third reading.

The Honourable Mr. ROGERS thought that the following section should be added after Section XVIII. :—"Any officer appointed under this Act, and any Revenue, Customs, or Police Officer may enter at any time upon any lands or premises on which there shall be any manufacture of salt not authorised under the provisions of this Act, or any natural formation of salt. And he may take possession of, or destroy any salt so manufactured or formed and any works or constructions prepared or used for the purposes of such manufacture."

The Council agreed to consider the section at the third reading.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Poona, 8th October 1873. Acting Under-Secretary to Government.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Friday, the 31st October 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable Colonel W. C. ANDERSON.

Papers presented to the Council. The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India, conveying the assent of His Excellency the Viceroy and Governor General to the Bill to legalize certain payments made from the proceeds of the Fees levied under Bombay Act IX. of 1863.
2. Letter from the Secretary to the Wai Survajanik Sabha, dated 8th October 1873, relating to the Salt and District Municipal Bills.
3. Petition from the Wai Survajanik Sabha, without date, relating to the Salt Bill.
4. Petition from the Proprietors of Salt Works and Merchants in Salt of Taluka Penn, dated 24th October 1873, relating to the Salt Bill.
5. Petition from the Proprietors of Salt Works in Taluka Uran, dated 27th October 1873, relating to the Salt Bill.
6. Petition from the Proprietors of Salt Works at Ghorebunder, dated 29th October 1873, relating to the Salt Bill.
7. Petition from the Wai Survajanik Sabha, dated 8th October 1873, relating to the District Municipal Bill.
8. Petition from the Poona Survajanik Sabha, dated 9th October 1873, relating to the District Municipal Bill.
9. Petition from the Bhewndy Survajanik Sabha, dated 9th October 1873, relating to the District Municipal Bill.
10. Petition from certain Ryots of Bhoosawul regarding the District Municipal Bill.
11. Petition from Mathoorbhoy Jayabhai and others of Ahmedabad, dated 2nd October 1873, relating to the Hereditary Offices Bill.
12. Petition from the Ahmedabad Zemindars Association, relating to the Hereditary Offices and District Municipal Bills.

His Excellency the President exonerates Government from the charge of "undue haste" in legislation.

His Excellency the PRESIDENT—Before we proceed to the first order of the day, which is the third reading of the Salt Bill, I think it is due to the Council, and to the Government itself, that I should make a few observations with relation to the requisition which has been presented to the Sheriff of Bombay to call a public meeting to protest against the passing of the Salt Bill, and also to protest generally against the undue haste with which this Council is proceeding with measures of legislation. I do not wish that we should be accused of want of respect to gentlemen holding the position in Bombay of many of the requisitionists, but I think it is right and proper for me to take this opportunity of pointing out the real position of affairs. In the first place, I think I may safely say that than this one there are few Legislatures regarding which the public are allowed more opportunities for criticizing their proceedings. Here, when any Bill is before the Council, the public are at perfect liberty to come forward and either tender their advice or their objections upon particular points. The rules by which this Council is guided in its procedure are exceedingly favourable to the public. First of all, a Bill must be published in the *Government Gazette* a certain time before it is introduced, and as a rule the time given by this Government exceeds, I believe, the time which it is actually bound to give. The next step in the history of a Bill is, that it is referred to a Select Committee after it is introduced. That Committee often sits for a very long time, and all persons who are interested in the Bill have then an opportunity of appearing before the Committee with objections and suggestions as to what should or should not be inserted in the measure. The Select Committee make their report to the Council, and the suggestions which it contains are seldom disregarded. The public are given every opportunity to make themselves acquainted with that report, and may submit what remonstrances or objections they please before the Bill is considered in committee of the whole Council, which is the next important step in the progress of the Bill. When this Council considers a Bill in detail, I do not think its conduct renders it liable to the accusation of stifling the freedom of debate, and I certainly think that I cannot be accused of so dealing with any measure that comes before the Council. I have sometimes thought that too much laxity is allowed in our discussions, but at the same time I believe that free and informal remarks often tend to bring Bills into shape quickly besides promoting good feeling amongst the members of Council. Certainly I think the unofficial members of this Council will bear me out, that occasionally when I have taken the part of "Her Majesty's Opposition," I have rendered them some assistance in carrying their amendments. But if none of these safe-guards existed, the public would still possess the right of appeal to the Governor General, who can have no bias either on one side or another, and will be always ready to listen to whoever addresses him on matters of public moment. Therefore, taking all these things into consideration, I think it must be admitted that the rules of the Council give every facility to the public for becoming acquainted with the legislation which is carried out in it. Complaints have been made with regard to our mode of doing business, but the reason for holding meetings of Council on successive days is obvious. When we meet in Bombay it is sometimes difficult for members of Council residing in Poona to attend, and when we meet in Poona it is always difficult for gentlemen engaged in Bombay to give us their assistance. It would be inconvenient to them to be called to attend Council

meetings frequently with short intervals between the meetings, and therefore it has been our practice to do as much business as we can in consecutive days. This is a mode of procedure which, I am sure, has met with the approval of this Council, and until we are otherwise informed I think we should adhere to the practice. Perhaps it may be as well to review the Bills which have come before us this year, and in the consideration of which we are charged with undue haste. One of the earliest Bills which we had for consideration was a Bill to amend the Municipal Act of Bombay. This was a very pressing measure, and without it the Act passed in the previous session could not have been legally brought into operation. Another Bill was the Cotton Frauds Indemnity Act, intended to legalize certain payments for objects to which, though not coming literally within the scope of the Cotton Frauds Act, no objection was taken in any quarter. Another Bill was the Burial Gounds Bill, which was introduced to public notice before I came here. Very strong feeling was excited about it in the minds of the community, and when it first came before the Council after my arrival I myself proposed, and got the Council to consent to, certain modifications. Many people however still objected, and its further progress was delayed for some months. When the consideration of it was resumed, it was understood that the native members of Council were still opposed to the measure. By a long and patient discussion we were enabled to modify it to such a degree that it passed the third reading without any opposition. The next Bill was for the legalization of the levying of tolls upon the roads and bridges in the Presidency of Bombay. A great public outcry was raised against that measure, and perhaps the most favourable description that can be given of that outcry was, that it was both unintelligent and uninformed. The Bill was meant to do nothing more than give a legal footing to what had been going on for several years, and which was a part of the policy of the Supreme Government. An attempt was made to make the people believe that tolls were to be raised upon roads and bridges throughout the Presidency; but the fact was that the whole disposition of the Council was to reduce these tolls. As far as most of us were concerned we should have been willing to do away with these tolls altogether, but as no one was able to point out a better means for obtaining the money required for the maintenance of the roads, we were compelled to pass it. Another Bill was the Bill respecting the examination of steam boilers throughout the country. That again was the mere extension of a law already existing in Bombay. Engines have been set up in different parts of the country, and it was considered right by the Executive Government that the mofussil should be granted the same protection with regard to boilers as was granted in Bombay. It cannot be said that the persons interested had no means of learning the scope of the measure. The machinery set up in the Presidency is, generally speaking, in places having ready communication with Bombay by railway. The people connected with that machinery did make representations, and unquestionably the Bill was modified very considerably before it was passed. So much for the past legislation. We now come to the Bills which we have before us to-day. The first is the Salt Bill, which is the cause of a public meeting that is now about to be held. The gentleman whose name heads the list of requisitionists is a highly respected member of Bombay society and was not long ago the occupant of a seat in this Council, and he as well as others in the list whom I could name are, I believe, large salt manufacturers. It is certainly unfortunate for these gentlemen that a due protection of the public revenue cannot be reconciled with their personal interests. In England if the

Government were legislating upon a matter of excise, I do not think that they would look for the best assistance from the great gin distillers of England or the whisky manufacturers in Scotland and Ireland. Unfortunately it is not to be wondered at that our views regarding articles of excise like salt should differ from those held by persons interested in its production. Therefore it may be that we find Mr. Byramjee Jeejeebhoy and other salt manufacturers opposed to us in the matter of this Bill. There can be no doubt that for some years salt smuggling has prevailed in the Bombay Presidency to a very considerable extent, and especially in this city of Bombay. It is the duty of Government to protect the general revenues from fraud. Of course in doing so it is our duty to guard against doing anything unfair, but nevertheless it is a duty which, while the law remains in its present state, must be done. There are some people who object altogether to a tax upon salt, but that is a question which this Council has nothing to do with; all that we can do is to leave such a question to the Supreme Government and to take all reasonable and proper precautions for the protection of the public revenue. The next Bill which we had under consideration was the Mofussil Municipalities Bill—a measure which has been for a long time, in one shape or another, under the consideration of Government. The principles contained in it had long been pressed upon us, and accordingly we introduced it. Every opportunity was given to the public for remonstrance and for representation upon its details, and I think that the Council paid all due deference to the honourable member opposite (Mr. Munguldass) whenever he had any objections to urge. We showed equal deference to the gentleman who now heads the list of European requisitionists when he held a seat in this Council and discussed at length the provisions of the Municipal Act of Bombay. Next we have the Bill for the survey of steam vessels. That, no doubt, is a very complicated matter to deal with, but the Government of Bombay has this to say for itself, that the law upon the subject which we are endeavouring to amend was passed some years ago. Since the opening of the Suez Canal that law may have been found inconvenient to many people; but no representation to that effect was made to the Government by any person in Bombay. It is true that representations came from England from the Board of Trade: it may be equally true that these may have been founded upon representations sent from Bombay to that Board: but nevertheless I repeat that no representation was made to the Bombay Government directly. Had there been, we should very probably have attended to the representation, just as in the Bill which came originally before the Council the alterations suggested by the Board of Trade were embodied. I may say that shortly before leaving Poona I was requested by a telegram from the Bombay Chamber of Commerce to postpone the final reading of this Bill until a public meeting called for its consideration was held. I agreed, and shortly afterwards certain gentlemen on the part of that meeting waited upon me, and I had then an opportunity of discussing the measure fully with them. The result of that interview will be that at the third reading of the Bill certain amendments will be submitted to the consideration of this Council. But I was requested by the deputation to pass the Bill as it is without the amendments rather than that it should be further delayed. The next Bill I will mention is the Wuttundar Bill. It is understood that when we finish discussing it at the present meeting it shall go again before the public. Finally, gentlemen, I think I have justified the proceedings of this Council, and in spite of the pending requisition and the pending public meeting which is to be held to judge us, I recommend the Council to go on with the business before it to-day without further delay.

Consideration in detail of the Salt Bill resumed.

The Council then resumed consideration of the Bombay Salt Bill in detail.

The Honourable Mr. BYTHELL thought that His Excellency would agree that some alteration upon Section VII. was necessary. That section gave the Governor in Council authority to delegate to any person appointed under this Act the whole or any part of the powers vested in him by this Act. He thought it would be very advisable to name the officers to whom these powers were to be given, and perhaps it would also be advisable to name the powers to be given to each officer.

The Honourable Mr. GIBBS remarked that no notice of motion to this effect had been given.

The Honourable Mr. BYTHELL said that he mentioned this matter during the last discussion in the Council, and it was agreed to hold consideration of it over.

After the honourable members had pointed out several sections which ought to be exempted from the operation of Section VII., the Council resolved to omit Section VII. altogether from the Bill; and to substitute the words "The Collector of Salt Revenue" for the words "Governor in Council" in line 1 of Section XXIII.

The Honourable Mr. ROGERS proposed that the following words be added as Clause 2 of Section XXXIV. of the Bill:—"Any fine imposed by the Governor in Council under the preceding clause shall in default of payment be recoverable by the Collector of Salt Revenue in the manner prescribed for the recovery of penalties in Section LIX. of this Act."

The amendment was agreed to.

The power to close salt works at certain seasons of the year objected to because it may stop the monsoon export trade in salt between Bombay and Calcutta.

The Honourable Mr. BYTHELL expressed a hope that the Council would again consider Section XXXIX., giving the Governor in Council power to forbid the removal of salt from any salt-work for any period between the 15th day of June and the 15th day of September in any year. He said that all the petitioners urge that this section will be practically giving power to Government to stop the export trade altogether from Bombay to Calcutta during the monsoons.

The Honourable Mr. GIBBS observed that Government would never close up a salt-work if it were bringing revenue to it.

The Honourable Mr. BYTHELL—But the point is that the revenue is not that of the Bombay Government.

The Honourable Mr. GIBBS—But even imperial revenue we must look after.

The Honourable Mr. BYTHELL—At the same time it must be borne in mind that the officers of the Salt Department in Bombay like to make their revenue return as great as possible, and if they were impressed that smuggling took place during the monsoon, they might make such strong remonstrances that the Government would forbid the entire export of salt during these months.

The Honourable Mr. ROGERS said that if the Government of Bombay were to do anything to hurt the interests of the Imperial Government it would soon hear of it.

The Honourable Mr. BYTHELL—But the Government of India's interests will not be hurt, because other countries are prepared to supply Calcutta with salt if Bombay does

not. The only effect therefore of closing salt-works in Bombay would be to injure local trade, and to take the gain that will be made by other countries out of the pockets of Bombay salt manufacturers. I believe that a gentleman passed through Bombay last hot season on a mission from the Khedive to see if a market could not be found in India for salt exported from the Bitter Lakes. It is therefore quite evident that Egypt is prepared to supply Calcutta if we do not.

His Excellency the PRESIDENT asked what would the preservation of this section effect? He thought local manufactories should not be discouraged.

The Honourable Mr. ROGERS observed that one great object of the section was to save preventive establishments being kept up at salt works which were doing little or nothing.

His Excellency the PRESIDENT said that if a salt work is suppressed altogether the owner must be paid according to this Bill as it stood. If a salt-work is suppressed only temporarily, why should not proportionate compensation be given to an owner?

The Honourable Mr. ROGERS—A salt-work would only be temporarily suppressed on the exports from it being found really too small to pay for a preventive establishment. If we do not get this section, any one who wishes to smuggle may come forward and say he wishes to prepare salt for export to Calcutta although he has not the least intention of doing anything of the kind.

The Honourable Mr. BYTHELL enquired whether if the licensee of a small salt-work abided by the law, it was not the duty of Government to encourage him as much as possible instead of closing up every small avenue of trade?

The Honourable Mr. NARAYAN said that it was generally in the monsoon months that salt was exported to Calcutta, and most of the salt manufactured at Matoonga found its way to Calcutta at that season.

The Honourable Colonel KENNEDY—I do not think we should thus interfere with the rights of private owners. I do not think we should be justified in doing anything that would interfere with the Bombay and Calcutta salt trade.

The Honourable Mr. MUNGULDASS said that in all his experience he never saw a Bill containing a more stringent provision than this one.

His Excellency the PRESIDENT was inclined to think that the section should be left out.

The Honourable Mr. ROGERS said that he was informed that the Government of India were very desirous of cutting down expense, and if the section was omitted they would be compelled to keep up a large unnecessary establishment.

His Excellency the PRESIDENT—Of course the Government of India are desirous to get the best revenue they can from salt; but we must bear in mind, on the other hand, that the letters and petitions which we have been receiving have all pointed to this section as too stringent, and also to the penalties as too severe. We have also here honourable members representing on behalf of the native and mercantile community that the section is vexatious, and to such unanimous representations I think we ought to pay some attention.

The Council agreed to strike out Section XXXIX.

Section 39 (giving power to close works at certain seasons of the year) struck out.

With regard to Section XXXVI. the Honourable Mr. ROGERS said—I have a proposal to make, which I hope at last will meet with the approbation of the public. In the course of the discussions upon this section, a great deal was said about the severity of preventing people from having a certain amount of salt in their possession because their houset happened to be within ten miles of a salt-work, land customs station, Government sals warehouse, or a port or place declared and appointed for the import or landing of salt. The amendment which I now beg to propose will go far to do away with this alleged source of oppression upon the people. I propose that we strike out from lines 9 and 10 the words, "or from any Government salt warehouse." The large towns of Guzerat, such as Broach and Ahmedabad, will thus be exempted from any hardship, and as these towns contain large Hindoo families who, like my honourable friend Mr. Munguldass, are in the habit of storing large quantities of salt in their houses, the proposed alteration will doubtless meet with his support.

Mr. Rogers proposes to increase the privileges of private persons with respect to storing salt.

The Honourable Mr. MUNGULDASS objected to the words "or port or place declared and appointed for the import and landing of salt," as they would work oppressively on many private houses.

The Honourable Mr. ROGERS' amendment was agreed to.

The Honourable Mr. Rogers made a further proposal in the same direction. After Section XXXVII, he proposed that the following new section be inserted :—

Special permits may be granted with respect to the transit of quantities of salt exceeding forty seers if the same is intended for private use.

"Within the limits aforesaid it shall not be lawful to possess or transport salt exceeding forty seers in quantity unless the same shall be in transit under cover of a permit or order granted under Sections XXVIII. and XXIX. of this Act, or shall be covered by a special permit authorising its retention for private consumption within the said limits. Such special permits shall be granted by the Collector of Salt Revenue, his deputies and assistants to such persons as they shall deem fit."

The Honourable Mr. MUNGULDASS quoted Section 13 of Bengal Act VII. of 1863, which is as follows :—"The Board of Revenue shall grant a rowannah for all salt passed or transferred within the limits fixed in accordance with such rules as the Governor shall from time to time make in this behalf, and on payment of such fee as may be fixed by such rules." Thus, said the Honourable Mr. Munguldass, the Bengal Board of Revenue were compelled to grant a rowannah in every case.

His Excellency the PRESIDENT asked whether the honourable gentleman would prefer to substitute the section he read for the one now proposed by the Honourable Mr. Rogers.

The Honourable Mr. MUNGULDASS said that he preferred the Bengal Act as a whole.

His Excellency the PRESIDENT remarked that the Bengal Board only grants the free rowannah for quantities of not more than five seers, and here it was proposed to allow forty seers without a rowannah. If the honourable gentleman did not prefer the Bengal section to the one now suggested, his object in quoting the section at all was not very clear.

The amendment was agreed to.

On the motion of the Honourable Mr. ROGERS the following words were inserted before "found" in line 6 of Section XXXVII.—" or covered by a special permit granted under the preceding section."

The Honourable Mr. ROGERS proposed that the following be added to Section XL. as Clause 2 :—

" The Governor in Council may from time to time fix the penalties for breaches of the rules framed under the preceding clause."

This was agreed to.

"Guilty knowledge" not required to be proved for the punishment of persons carrying contraband salt.

The Honourable Mr. ROGERS—According to the notice of motion which I have given, I propose that the words " which he knows or has reason to believe to be contraband," in lines 3, 4 and 5 of Section LII., be omitted, and the word " contraband " inserted before " salt" in line 3. The words which I now propose were inserted in the Bill after a discussion and division on the second reading, but I trust that the statements which I am now about to bring forward will induce the Council to accept the present amendment. I think everybody will acknowledge that it is one of the first principles of all Excise Acts that a person who is in any way engaged in carrying articles liable to duty shall take every reasonable precaution to avoid breaking the law. With regard to the words which I am now compelled to object to, it was shown at the second reading that any person who by accident or misfortune took contraband salt carried contraband salt without knowing he was doing so would be exempted from punishment by the provisions of the Criminal Code. I wish to impress that fact upon the Council. At the econd reading I argued that any Magistrate before whom a case of this kind came would of course consider it to be his duty to ascertain whether the prisoner had guilty knowledge or not of what he was carrying. The section as it now stands with the Honourable Mr. Narayan's amendment will oblige the prosecution in every case to prove guilty knowledge on the part of the person upon trial. But I think this is decidedly inadvisable. In ninety-nine cases out of a hundred it would be simply impossible to prove such a thing The present section, I may point out, will affect other persons than those not directly engaged in the salt trade, it will affect Government servants, for instance. Formerly Government servants who committed a breach of duty could be reached, but now, if the Council does not accept my amendment, they will only have to plead neglect or carelessness in order to get out of Court. By the present law in different parts of India it is not necessary to prove the guilty knowledge of persons carrying excisable articles. Bombay Act XXXI. of 1850 says that any person concerned in passing salt either by land or sea contrary to the provisions of the Act " shall be punished," &c. Here there is no necessity laid down for proving the guilty knowledge, a man being always supposed to make proper inquiries as to whether in doing certain things he is breaking the law or not. In Bengal Act VII. of 1863 (Sections XVI., XVII. and XVIII.) the words " shall be punished " are used, and nothing is said about guilty intention. And the same with the Madras Act VI. of 1871, in a section of which nothing whatever is said about " guilty knowledge " being necessary to be proved. The assumption that it was necessary to include these words in the Bill before us arose from a feeling of philanthropy on the part of the Honourable Mr. Narayan, who thought that the poor innocent coolie would fall a victim to the previous wording of the section. But I have said before, and repeat it now, that surely Magistrates may be trusted to decide whether a person engaged in transporting contraband salt had guilty knowledge of what

he was doing. If this section is passed as it was amended by the Honourable Mr. Narayan it will make the punishment of certain smugglers impossible, and to prevent one of the most beneficial parts of this new law from becoming null and void, I beg to submit my amendment to the consideration of the Council.

The Honourable Mr. NARAYAN—If I had adopted the procedure which the honourable member has endeavoured to introduce, I should have proposed over again nearly every one of the amendments which were negatived by the Council upon a former occasion. But I feel that that would be an improper course to take, and I am content to accept my defeat and acquiesce in the decision of the Council. This question was fully discussed upon the last occasion when the Bill was before us, and my amendment was carried after a division. The Honourable Mr. Rogers now not only wishes this Council to disregard all recognised principles of jurisprudence, but absolutely to stultify itself. Before the amendment is put to the meeting, Sir, I will move "the previous question" and put it to the Council whether honourable members can be allowed to re-open every question decided by this Council. Our discussions will then be interminable.

The Honourable Mr. ROGERS here said that he did not think he was out of order in any way.

The Honourable Mr. BYTHELL—I cannot exactly agree with the Honourable Mr. Narayan, because I remember that when the Municipal Bill was being read a second time, I proposed an amendment regarding the Town duties, which was rejected by a large majority including, if I am not mistaken, the Honourable Mr. Narayan, but when the Bill was brought up for a third reading I repeated my amendment, which this time was carried almost unanimously.

The Honourable Mr. NARAYAN said that if the point of order was decided against him, he would draw the Council's attention to the fact that in none of the Acts which the Honourable Mr. Rogers had alluded to, do the words "concerned in passing, removing, or transporting," occur, and he thought that it would be a harsh proceeding if this Council were now to introduce them in this Bill.

The Honourable Mr. ROGERS thought the Bengal Act contained the words in question.

The Honourable Mr. NARAYAN—At all events they are not in the present Bombay Act.

The Honourable Mr. ROGERS—But it contains the words "concerned in passing," and I confess I cannot see the practical difference between these and the words we have in this section.

His Excellency the PRESIDENT thought that the proving of guilty knowledge would be a most difficult thing. How could it be proved that a man knew that certain salt he was carrying had not paid duty?

The Honourable Mr. GIBBS—Since the Honourable Mr. Narayan carried his amendment it has been brought to the notice of the Executive Government that if this section is permitted to stand, in every case of prosecution with reference to the transportation of contraband salt the onus will be thrown upon the Government officer of proving that the accused had full knowledge of what they were doing at the time of apprehension. Now that will be a thing almost impossible to prove in the majority of cases, and it will be much more satisfactory if the Honourable Mr. Rogers' amendment is agreed to and the onus thrown upon an accused person of proving his innocence.

The Honourable Mr. BYTHELL—I voted with the Honourable Mr. Narayan during the second reading, but I have since come to the conclusion that his amendment was a mistake. It seems, from what the Honourable Mr. Rogers has said, that the law in Bombay is the same as the law in other parts of India, and if I read the Customs Act rightly (Section 194) the same principle is adhered to there, no mention of the word "wilful" occurring. We are also informed by the Honourable Mr. Rogers and the Honourable Mr. Gibbs that coolies brought up under this section before a Magistrate would be amply protected by the Penal Code. Therefore I feel compelled to vote with the Honourable Mr. Rogers in his present amendment.

The Honourable Colonel KENNEDY stated that his opinions were in accord with those expressed by the Honourable Mr. Bythell. Theoretically the principle of the Honourable Mr. Narayan regarding danger to the liberty of coolies might be right, but practically he was convinced that no harm would be done if the section were altered back to its original shape.

The Honourable Mr. NARAYAN—In the Bombay High Court some time ago a case was decided in which a man was not allowed to put in the plea of "guilty knowledge," because the judges were of opinion that the wording of a certain Act left them no option in the matter.

The Honourable Mr. ROGERS—I hope this illustration will add some weight to my amendment. The owner of a salt work in Bassein got a permit to remove two boat-loads of salt which were to weigh sixty tons altogether. It was found out afterwards, however, that sixty-six tons had been removed. The case was brought before the Subordinate Magistrate at Bassein and the plea set up was that the overweight was accidental. Notwithstanding the unlikelihood of the whole six tons of salt being accidentally added to the other sixty, the Magistrate—I am happy to say he was only a Subordinate Magistrate—considered that "guilty knowledge" must necessarily be proved, and so acquitted the prisoner.

The Honourable Mr. NARAYAN said that the Subordinate Magistrate was removed by Government, and with such an example before him, it might be taken for granted that his successor would be extremely cautious as to which way he would decide a case of that kind when it came before him.

The Council divided on theHonourable Mr. ROGERS' amendment:—

Ayes—6.	*Noes*—3.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBOY.
The Honourable J. GIBBS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable COLONEL M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	
The Honourable J. K. BYTHELL.	
The Honourable COLONEL W. C. ANDERSON.	

The amendment was therefore carried.

Mr. Rogers moves the third reading of the Bill.

The Honourable Mr. ROGERS then proposed the third reading of the Bill, and in doing so said—Very few of the Bills we have ever had before us have been so much discussed as this one, both by the general public and the members of this Council, and however much the press have abused us, I think they must now give us credit for having discussed every detail

most conscientiously. On almost every point where the petitioners have come forward and said a particular section would press very heavily upon them, we have given way. An objection was raised against a section which was drawn out for the protection of salt owners themselves, viz., the one providing that a list of persons employed at salt works should be given. As to that section we gave way altogether. Other sections we have now framed in such a way as to prevent the risk of subordinates in the Salt Department exercising undue oppression. Then as to the matter of salt for private consumption, we had at first provided that no salt above twenty seers should be kept by any private person without a license, but on the representation of the Honourable Mr. Munguldass and others, we doubled the quantity. To-day we have gone still further in order to prevent undue hardship in the case of large towns in Guzerat near which salt works have been recently established. Objections were raised as to the forms of permit and these have now been amended. Altogether, I may say that there is nothing now contained in this Act which will press unjustly upon anybody. It has been said that the law is stringent, but it must be borne in mind that all excise laws must be stringent if the revenue is to be protected properly. In the course of the debates here, honourable members made frequent allusions to the law on the subject in other parts of India, but if they had made careful inquiries into the system adopted in Bengal, they would undoubtedly have come to the conclusion that the present Bill is mild in comparison. There is only one other point which I would allude to in order to place the conduct of this Government in a proper light with respect to it. I refer to the export of salt to Calcutta, and to the manner in which the Salt Department authorities here deal with certificates granted by the Calcutta Board of Revenue to the shippers with respect to alleged losses of cargo. On this subject Mr. Pritchard has prepared the following statement which I will read to the Council:—

"The export of salt to Calcutta, duty free, is permitted on the shipper executing a bond, binding himself to deliver at Calcutta the quantity for which permit is granted, less five per cent. allowed for wastage on the voyage, and on his making a deposit at the rate of four annas per maund for the fulfilment of the terms of his bond. Armed with a general permit from the Collector's head-quarter office the shipper goes to a salt work, and obtains from the Sir-carkoon in charge separate permits (or boat notes) for each boat-load of salt he removes to the exporting ship. These boat notes are handed to the captain, who enters in the ship's export manifest the aggregate of the quantities shown in the notes of all the boats from which he has taken in salt as the quantity of salt loaded into his ship. Before the ship leaves Bombay harbour the captain, in order to protect himself and ship, invariably executes a protest before a notary public, protesting that the whole quantity of salt shown in the ship's manifest has not been put on board. When the ship arrives at Calcutta she and her cargo are treated in the ordinary manner under the Customs Act and Rules of the Port, and if when the salt is landed it is found that the quantity landed is short of that shown in the manifest, after making the ordinary allowance of five per cent. for wastage, the captain and ship are liable, under Section 49 of the Customs Act, for the payment of full duty on the excess deficiency. The Collector of Customs and the Board of Revenue at Calcutta then enquire whether such deficiency is due to any act of default of the captain or ship. The captain puts in the protest he executed in Bombay, and the Calcutta authorities, knowing that salt smuggling in Bombay harbour is a common occurrence, and that the salt was not weighed at the ship's side or on board, as a rule free the ship and

captain from liability, and admit the deficiency. But they decide nothing with respect to the shipper's liability, which is separate and distinct. They have nothing to do with him, or with the bond he entered into with the Collector of Salt Revenue in Bombay. They could not enforce the terms of the bond if they would. Their decision, freeing the captain and ship, is virtually a declaration that in their opinion the whole quantity of salt shown in the manifest never reached the ship, and the result of that decision is to throw the whole responsibility of the deficiency on the shipper in whose hands the salt lay on the voyage between the salt-works and the exporting vessel's side. This responsibility is enforced by the levy of Bombay duty on the deficiency from the deposit made by the shipper with the Collector of Salt Revenue. There is no hardship in this. The facilities for smuggling unexcised salt on its way from the works to the exporter's ship are enormous, and it is well known that they are availed of. Shippers can at once protect themselves if they please by weighing the salt on board ship, and ship captains may just as effectually protect themselves in the same manner. The five per cent. allowance is amply sufficient to cover all ordinary and reasonable wastage. Shippers of full duty paid salt to ports in Bombay Presidency (such shipments aggregate from 3 to 4 lakhs maunds a year) do not receive any wastage allowance, and get on well without it. At any rate there are no complaints. Mr. Bythell mentioned that the levy of duty in Bombay on excess deficiencies admitted by the Board of Revenue at Calcutta was contrary to the provisions of a notification issued by the Commissioner of Customs in 1869. But I find on reference to that notification that it merely reminds masters and shippers of their liability to the payment of the full Calcutta duty (at the rate of Rs. $3\frac{1}{4}$ per maund) on all excess deficiencies discovered at that port, and does not in any way release shippers from their liability to pay Bombay duty on such deficiencies, under the specific terms of the bond they are required to execute previous to shipment, in all cases in which the ship's liability on the same account has not been enforced by the Customs authorities at the port of Calcutta."

Mr. Munguldass opposes the third reading.

The Honourable Mr. MUNGULDASS NUTHOOBHOY—Sir, I exceedingly regret that the hope I expressed on the second reading of the Bill, that the Council would so modify it during the consideration of its details as to remove the just ground that existed for complaint against the injustice it would perpetrate and the hardship it would inflict, has not been realized. In spite of the remonstrances of the native members of this Council and several petitions from the salt proprietors, salt traders, and the people of this Presidency, only some modifications have been made, and even these modifications would never have been made but for the strong expression of opinion by His Excellency and the expression of opinion by the distinguished statesman who is at present at the head of the Government of India. The majority of this Honourable Council being inclined to support the Bill as it is, it would have been a waste of the very valuable time of His Excellency for me to have proposed amendments to modify the severe and unjust provisions contained in it. I beg therefore merely to vote against its third reading, and briefly to state a few out of the many reasons for doing so. In this Bill the essential principle of justice and criminal jurisprudence has been set at naught. The law in certain cases makes a master civilly responsible for the acts of his agents and subordinates, but in the whole of the criminal law of England, as well as of this country, no person to my knowledge is

criminally punished for the acts of his subordinates or agents, or even of his nearest and dearest relations, except when he knowingly and wilfully abets the commission of a criminal act. This Bill, however, seeks to criminally punish persons for the crimes of others, and create what is called agency in crime (Section 3 last para. with Sections 49 to 54). This Bill gives unlimited and unnecessary power of interference with private salt pans which it is proposed to be conferred on officers—great and small—of the Salt Department (Sections 45 and 46). In consequence of this interference the value of private salt works must diminish, and they may become almost worthless, according to the degree of harshness, for which very great scope is allowed, with which the provisions may be enforced. The principle of sound legislation is, I humbly think, to define the provisions of law clearly and definitely, and once for all, so that the people may know beforehand how to act, so as to avoid the infringement of the law; but this Bill empowers Government, under Section 40, to make and change rules from time to time as it may deem expedient, and imposes any amount of fine which Government may fix in the rules for even an unintentional breach of the same. Section 34 lays down that if any one, whether himself or his agent, even unintentionally, infringes not only any of the provisions of this Act, but any of the rules which the Government may make from time to time, he will be liable to be deprived of his license to manufacture salt or to a heavy fine, which Government may fix in the rules. The Bill gives extensive powers to sub ordinate officers like the sircarcoons and darogas, whose minimum salary is not, as I was led to believe, Rs. 200 and Rs. 80 per mensem. I find that these figures represent their maximum pay, while the minimum salary of many of these officers is 30 and 18 rupees a month—(see paragraph 283, page 71, of Mr. W. G. Pedder's Report No. 103, dated 30th July 1870)—which latter is equal to the pay of some of the menial servants in Bombay. These officers cannot always be expected to be of good education and to possess integrity and sound judgment, and yet they are by the provisions of the Bill authorized to *summon*, and thereby harass, *any* one whom they believe to know any thing about the enquiries they may be making at their pleasure about salt without giving him any compensation (Section 18). The Bill also gives to such lower grades of officers the power of compelling the salt owner to repair his salt pans (without any limit of expenditure) as they may direct, to store salt at any place they may desire, or to remove salt in the manner they may choose. Any of these orders may cost the owner more than the value of his salt, which is only from an anna to an anna and a half per maund, thereby compel him to give up the manufacture of salt, and thus lose his property in salt pans (Sections 45 and 46). By the provisions of Section X. of the Bill the liberty of person of every subject of Her Majesty in this Presidency is at the mercy of the officers (under which designation even a peon may be included) of the Salt, Revenue, Customs and Police Departments. Any of these officers may arrest and detain, even without a warrant, any person against whom reasonable suspicion may exist in his mind (according to his own standard of reasonableness) that he is guilty of any offence against the salt laws and rules made or to be made. As no person can afford to resolve not to have anything to do with salt, and as the Bill contains oppressive provisions applicable to manufacturers, traders, and even consumers, the above named officers will have scope to use their arbitrary power of arresting and detaining any person they choose without warrant. On the salt trader the Bill not only imposes the condition of taking his salt by a particular route and to a particular place, but requires from him the impossibility of conveying the salt to its destination both by land and sea within a given time under pain of his salt being

confiscated ! ! (Section 28.) How can he prevail upon the sea not to obstruct his salt vessel or his pack or cart bullocks not to be sick or die on the way ? To the public, the Section 38 says you shall not keep more than 40 seers of salt, a new and unnecessary prohibition, by which every householder in the mofussil, the majority of whom are ignorant, (under Section 16) will be at the mercy of every subordinate of the Salt, Revenue, and Police Departments, including even a peon under that designation. But the modification that has just been made in the section reduces the number of places considerably to which the section would otherwise apply. Suppose a person happens to offend any of the people of the above departments, there is nothing to prevent any of these worthies to go to the dullest subordinate magistrate, some of whom are karcoons on Rs. 45 a month and ignorant of the English language, to state that they believe that the man has got more than forty seers of salt, and to obtain a warrant to search his house at the dead of night and annoy him and the female members of his family and disgrace him in the eyes of his neighbours. There is no such prohibition as this one of forty seers in the recent Madras Salt Act (No. 6 of 1871), which I cannot help regarding as a good and fair law. Another remark I would make is to reply to the recent cry raised, as a justification for arbitrary and dangerous sections in this as well as other Bills, that we ought to have confidence in the Government and its officers, that the powers given to them will not be abused. While I am ready, Sir, to place every confidence in the Government and its officers, I strongly protest against enacting bad and dangerous laws, and depending upon the good sense of individual officers not to so apply them as to bring out evil. In my humble opinion, if all men were saints no laws whatever would be required to be enacted ; and legislation implies an imperfection in human nature to which the Government officers can be no exception. The object of every law must be as much to provide against injustice and the abuse of authority by the officials in power as to define the subjects' rights and liabilities. I respectfully submit that every law should aim at reducing the discretion of officers who are to carry it out to the minimum and ensure a uniform rule of just execution to the people. Under this view I cannot but strongly protest against the principle that seems to have been followed and advocated in this and some other Bills, of giving arbitrary and dangerous powers to Government officers and then to trust to their good sense not to abuse or harshly use them. I must also respectfully beg to submit that the effect of this stringent measure will be a further enhancement of the already heavy price of salt, without which the meanest human creature cannot live, and an aggravation of the sufferings of the poor. In conclusion, I would solicit the liberty of reading two paragraphs, which contain, in my humble opinion, very valuable and important advice from the speech which was given on opening the Legislative Department of this Presidency by one of His Excellency's predecessors, Sir George Russell Clerk, a statesman whose experience of India extends over a period of nearly forty years. As it would be out of place for me to express whether or not the policy indicated by that able and experienced statesman should recommend itself to, and be followed by, His Excellency's Government, I only respectfully submit his remarks for such consideration as His Excellency may deem proper to grant to them :—

" On the manner in which these duties may be performed it will depend whether many millions of our subjects enjoy contentment and security, or lead a life of uncertainty and confusion. On the one hand, by over-legislating, you will be liable to keep the people in a state of doubt and alarm. On the other hand, by bearing in mind that none know better

to govern themselves individually and parochially, you may be constantly in the course of ameliorating their condition, while safely maintaining Her Majesty's just sway over a contented people. And be assured that your consultations will lose nothing of safe guidance, by occasionally looking for it in native discernment. Although your functions will be important, they need not be difficult. The several races subject to our laws in this Presidency, and generally throughout India, are not of a restless character, unless rendered restless by mis-government—and everywhere they have an innate respect for authority, whenever authority is respectable and wise."

With these remarks I must vote against the third reading of the Bill.

The Honourable Sir JAMSETJEE JEJEEBHOY said—His Excellency is aware that a numerously signed requisition has been sent to the Sheriff of Bombay, to convene a public meeting of the inhabitants of this city for the purpose of submitting a memorial against this Bill. I think therefore the only proper course for this Council to take, is to postpone its further consideration until the people of Bombay have had an opportunity of submitting respectfully their views upon the subject. As the Bill in question only passed the second reading on the 8th instant, I did hope that more extended time would have been allowed the general public before it was brought on for the third reading. There is no doubt the Bill has been greatly improved since it was read for the first time, and some of the objectionable clauses have been expunged, nevertheless it imposes preventive duties upon the owners of salt works, which, I think, properly belong to the officers employed in the Salt Collector's Department. I do not object to the owners or their agents being required to render all the assistance they can fairly be asked to render in the prevention of smuggling, but the object of the framers of this Bill seems to be that of imposing the whole burden upon the owners. The preventive establishments which Government at present employ to guard these salt works are utterly inadequate for the duties they are called upon to perform. The system of licenses to owners which this Bill introduces is altogether an innovation, and I am afraid that it will have a very prejudicial effect on the value of this description of property. A reference to Section 34 of the amended Bill will show the amount of heavy responsibility imposed upon the owners. This action, besides conferring upon Government the power of suppressing a salt work in the event of the licensee, or his agent, being guilty of any breach of any of the rules to be published hereafter, makes the owner also liable to a fine not exceeding one thousand rupees if any of the persons employed thereat shall have been guilty of any offence against the provisions of this Bill. In many instances in which the owners of salt works reside hundreds of miles away from their property this section will inflict a serious hardship. I fear that the tendency of this Bill is to extinguish the proprietary rights of the people, and the restrictions which it will impose will inevitably enhance the price of a commodity which is almost a necessary of life. As it is, the action already taken by the Collector of Salt Revenue under the existing law in suppressing salt works yielding annually less than five thousand Indian maunds of salt has had the effect of raising the price of this article in some parts of this Presidency. The proprietors do not receive any compensation whatever for the suppression of such works, and are often ruined, their only source of income having been taken away from them. This crying injustice, I am sorry to say, is about to be perpetuated by this Bill. Unless the Honourable Mover consents to a postponement of the further consideration of this Bill I shall be compelled to vote against the motion for the third reading.

Sir Jamsetjee proposes that the third reading of the Bill be postponed.

His Excellency the PRESIDENT—I am certainly very sorry that after all the pains which have been bestowed by us upon this Bill in order to meet objections, my honourable friends should still feel themselves bound to oppose it. I think that the Honourable Mr. Munguldass will admit that the greater part of his observations were addressed to the Bill as it originally stood.

The Honourable Mr. MUNGULDASS said that such was not the case, that he had been very careful, and that he touched only upon what was before the Council.

His Excellency the PRESIDENT—To-day we have made alterations to which the honourable gentleman makes no allusion in the speech he has read and of other concessions he appeared to me to speak as if they had not been made. At least two very material alterations have been made which escaped mention by the Honourable Mr. Rogers. As the Bill originally stood we proposed to make the payment of duty upon all salt exported to Calcutta and Madras compulsory. That has been altered. Great objections were taken to the mode in which compensation was to be made to the proprietors of salt works which were to be suppressed. In deference to these objections this matter has been brought under the ordinary process of the Lands Compensation Act, much, I believe, to the satisfaction of the original objectors. In short, we have done all we can to make the Bill fair as between the tax-payer and the manufacturer of salt, and if unfortunately the value of salt manufactories should fall in the market, I believe it will be not from the unduly harsh operation of our laws, but because smuggling will not be so easy as formerly, and consequently salt property will not be so valuable. It would be a great misfortune if notwithstanding all our labours smuggling were to go on as freely as ever, and certain gentlemen were to make as much money as they do under the present system. With regard to the request for delay preferred by the Honourable Sir Jamsetjee Jejeebhoy, I do not think this Council would be justified in acceding to it. This Bill has now been before the public for three months and has been so much discussed, that I do not believe that any meeting which may be held in this city can bring before us any new matters which we have not discussed over and over again. Such being the case I do not think we shall be guilty of injustice to salt proprietors if we now proceed to take the vote upon this measure.

The Honourable Mr. BYTHELL—I do not wish to give a silent vote upon a measure of this description, and therefore I will make one or two remarks. I stated on the motion for the second reading that although I thought many of the provisions of the Bill required modification, yet that some change in the existing law was very much needed, because the facts which were placed before us showed very clearly that an enormous amount of smuggling was going on. I then pointed out that to allow this smuggling to continue would be the means of inflicting hardships upon honest salt manufacturers as well as upon the general public, and that it was the duty of Government to do all in its power to protect the revenue. If this new Bill works as it is expected to do, and as I believe it will, smuggling will be reduced and with it general taxation. The Bill as drafted was very stringent, but I now agree with the Honourable Mr. Rogers that most of the objectionable features and most of what the various petitioners objected to in the Bill have been removed either by the modification or (as was done this morning) the complete omission of certain sections. As His Excellency has already told us, we are not called upon to say whether the duty is or is not one which it is advisable to levy. That is a matter in the hands of the Supreme Government with which we cannot interfere. We can only try to see that the preventive law is fairly made. With reference to the statements

made by honourable members that we are proposing to pass a Bill more oppressive than any law in force in the other presidencies, I may say I have gone through the Customs Act and the Salt Acts of Bengal and Madras, and have come to the conclusion that, as compared with these measures, this Bill as it now stands is not unnecessarily or comparatively stringent. The Honourable Mr. Munguldass commented very strongly upon the fact that this Act will make owners responsible for the actions of subordinates, and said such a thing was contrary to all principles of British law. But I think the honourable member will find that he is mistaken, for if he refers to Customs laws he will see that it is their very essence that masters shall be responsible for the acts of their servants. For these and the other reasons I have given during the lengthened discussions on this Bill I have decided to vote in favour of the third reading.

Mr. Bythell supports the motion for the third reading.

The Honourable Mr. MUNGULDASS observed that he said that by this Act masters would be held "criminally" responsible for the faults or mistakes of their servants.

The Honourable Mr. ROGERS—There is still one misconception unremoved in the Honourable Mr. Munguldass' mind. He seems to think that the quantity of privately kept salt is to be limited all over the mofussil, whereas it is only towns within ten miles of manufactories which will be affected.

The Council divided on the motion for the third reading of the Bill:—

Ayes—6.	*Noes*—3.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. GIBBS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	
The Honourable J. K. BYTHELL.	
The Honourable Colonel W. C. ANDERSON.	

Bill read a third time and passed.

The Bill was accordingly read a third time and passed.

The Honourable Mr. GIBBS, before moving the third reading of the District Municipal Bill (No. 8 of 1873) proposed re-consideration of the Bill. He said—We have received a petition from the Poona Survajanik Subha, dated 8th October 1873, relating to the District Municipal Bill. The petitioners object to Government taking the initiative in establishing Municipalities, to Presidents of Municipalities having a veto, and think that generally the powers of Presidents should be restricted, these being at present (according to the petitioners) "omnipotent and irresponsible." They also desire that all Municipalities should be compelled to spend their revenue only within their own limits, and that they should be permitted to make their own sanitary arrangements. These are the leading parts of the Poona petition, and as most of the points referred to have already been considered by the Council, I think we need not waste further time over them. With the Council's permission, I shall proceed to make a few formal amendments on the details of the Bill. In the first place I would propose that in section three, referring to the definition of the word "place," we should insert after "bazaar" in line 22 the following words:—"or (with the previous consent of the Governor General in

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Council) any Cantonment." Since the consideration of this Bill by the Committee of the whole Council I have had a good deal of correspondence with gentlemen, in order if possible to obtain a clearer definition of "place." Mr. Hope has failed to assist me after giving great consideration to the subject. It will be remembered that the difficulty about this word first arose from its use in one of the sections, by which some honourable members started the theory that by the Bill it was intended to mass a number of villages together and make them into one Municipality. But I have been assured by a very energetic Collector that that is the last thing he would ever seek to do in his district, and he as well as others would certainly be opposed to having Municipalities except where they were absolutely necessary. I think it may be taken for granted that nobody will seek to adopt this system of massing municipalities, and I believe we have now obtained as thorough a definition of "place" as it is possible to get. The alteration which I propose now is with reference to a remark which the Honourable Mr. Rogers made during the second reading. This amendment must be considered together with the amendments of which I have given notice on Section IV., and which are that in Section IV., line 10, clause 1, for the words "city, town . . . . cantonment," we should read "place"; and that we should omit in lines 16 and 17 the words "and shall define . . . thereof," and at the end of line 20 add the words "and shall define in the said notification the proposed limit of such municipal district."

The alterations were agreed to.

The Honourable Mr. MUNGULDASS proposed that in Section IV., line 4, between the words "notification" and "in," the words "in English and in the language of the district" should be inserted; and that in line 6 the word "proclamation," should be omitted and the words "notification in the language of the District" be inserted.

The alterations were agreed to.

The Honourable Mr. MUNGULDASS then proposed that in Section IV., line 20, after the word "thereof" there should be added the words: "provided that no cities, towns or villages shall be united for the purposes of this Act which are separated from one another by a distance of more than half a mile of ground unoccupied by houses." This provision was taken from the Bengal Municipalities Act, and would in his opinion be a useful check to any body massing municipalities together.

The Honourable Mr. GIBBS said that it would be very inadvisable for the Council to adopt such a resolution, unless by returns from all the municipalities in the Presidency it could see what the precise effect of the amendment would be. In the case of Poona, there is already a village lying close to it and far from any other town or village, and if this amendment were carried such a village would be excluded from the municipality. There may be many other similar cases.

The Honourable Mr. NARAYAN—I must support the amendment, because, as the section is at present worded, an over-zealous Collector, disregarding the intentions of the present Government, might easily connect a number of villages together for the purpose of making a municipality of them.

The Honourable Colonel ANDERSON—The honourable gentleman's apprehensions will not be allayed if this amendment is carried, because an over-zealous Collector who wishes to over-ride the opinions of this Council could easily get little houses erected here and there, so as to bring boundaries within the limits suggested by the Honourable Mr. Munguldass.

The Honourable Mr. ROGERS remarked that the Ahmedabad Cantonment was three miles from the city, and if this amendment was agreed to the Cantonmentcould not be joined to the municipality.

The Honourable Mr. MUNGULDASS said that as a compromise he was willing to take a mile, although what he had already proposed was in the Bengal Act.

The Honourable Mr. GIBBS observed that the Bengal Act was vetoed by the Governor General.

The Honourable Mr. MUNGULDASS remarked that the Bill was vetoed only on account of the excessive taxation it would authorise.

The Council divided on the Honourable Mr. Munguldass' amendment:—

Ayes—4.	*Noes*—5.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.	The Honourable J. GIBBS.
The Honourable SIR JAMSETJEE JEJEEBHOY.	The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.	The Honourable J. K. BYTHELL.
	The Honourable Colonel W. C. ANDERSON.

The amendment was therefore lost.

The Honourable Mr. BYTHELL moved the same words, substituting "one mile" for "half a mile." This he said would give a larger boundary.

The Honourable Mr. GIBBS remarked that this amendment was equally objectionable with the one which had just been rejected. If it was adopted the Council, from want of definite information as to boundaries, would simply be legislating in the dark.

The Honourable Colonel KENNEDY said he had given his vote in favour of the Honourable Mr. Munguldass' amendment because, approving of the mile boundary, he thought it was the same as the one which the Honourable Mr. Bythell was now proposing.

The Honourable Colonel ANDERSON concurred with the Honourable Mr. Gibbs that the amendment was perfectly vague.

After some further observations the amendment was put to the vote and carried:—

Ayes—5.	*Noes*—4.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Colonel M. K. KENNEDY.	The Honourable J. GIBBS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel W. C. ANDERSON.
The Honourable J. K. BYTHELL.	

The Honourable Mr. GIBBS then proposed that after Clause 3 of the section the following words should be inserted as Clause 4:—

"The above provisions of this section shall not be applicable to Municipalities formed under Act XXVI. of 1850, which the Governor in Council may consider should be constituted as Municipal Districts under this Act. In such cases it shall suffice that the Governor in Council declare by notification in the *Bombay Government Gazette* that such Muni-

cipalities or any of them are henceforth to be Municipal Districts under this Act." The object of this section was to leave present boundaries in *statu quo*.

The amendment was agreed to.

The Honourable Mr. GIBBS proposed to enter as clause five of this section the present second clause of Section VI., omitting it from Section VI.

The motion was put and agreed to.

The Honourable Mr. GIBBS suggested that in Section VII. the line "Huzur Deputy Collector and Magistrate" should be removed from its present place and bracketed with the words "resident in or near the place."

The Honourable Mr. MUNGULDASS moved that "the Deputy Educational Inspector" should be added to the list of *ex-officio* Commissioners.

Both amendments were agreed to.

The Honourable Mr. MUNGULDASS moved that in Section 7, lines 41 and 42, the words "or other officer duly authorized by him" should be omitted.

The motion was agreed to.

The Honourable Mr. MUNGULDASS moved that in lines 46 and 47 of the same section, the words "be convicted of an offence punishable under the Indian Penal Code" should be omitted and the following words substituted; "be sentenced to rigorous imprisonment for six months or longer."

The amendment was agreed to.

The Honourable Mr. MUNGULDASS moved that in Section 14, line 51, the following proviso should be added after the word "same" :—"Provided that the total amount raised by such taxes, tolls and other imposts shall not exceed, in the case of a City municipality, a sum equal to Rs. 1-8-0 per head of the total population thereof, and in the case of Town Municipality, a sum equal to annas 12 per head of the total population thereof." The honourable member remarked that according to the fixed principles of legislation a limit ought to be fixed upon taxation.

The Honourable Mr. BYTHELL said that he agreed to some extent with the Honourable Mr. Munguldass, and would go further and specify the articles which might be taxed.

The Honourable Mr. MUNGULDASS observed that he had chosen the maximum limit in order to convenience different towns which needed different rates. As far as he could make out from the list of towns which was given in the Administration Report the average of taxation came only to about a rupee per head.

The Honourable Mr. NARAYAN supported the amendment. Excepting in the matter of Police the Municipalities were to be made liable to pay fully for a number of improvements, and unless a limit were fixed the result might be very oppressive. In the debate last year upon the Indian Budget, Sir Charles Wingfield deprecated the attempt to push on improvements too fast, because this simply meant increased taxation and he (the Honourable Mr. Narayan) agreed with the honourable member of Parliament.

The Honourable Colonel ANDERSON—I quite agree with the remark that the Council ought to be careful to fix a limit for taxation, but would point out that if the Council fixes any limit, the cry would at once go forth across the country that Government intended to tax up to the maximum at once. The Council had a remarkable instance of this tendency in the matter of the Tolls Bill, when, although it simply proposed to give power to tax in

certain cases, the rumour was spread that henceforth Government would levy a toll upon every pedestrian crossing a bridge.

His Excellency the PRESIDENT remarked that the taxation at present was very unequal in Municipalities in the Presidency, and if the Council laid down this limit the confusion would, he believed, be very serious.

The Honourable Mr. GIBBS said that the list of taxes which might be imposed by a Municipality if it chose having been struck out for the reason that its presence in the Act would frighten people, he thought that to be consistent this Council must now decline to fix the limit which the Honourable Mr. Munguldass proposed. Moreover, the Council had not sufficient data before it to justify it in any way agreeing to any such proposition.

The Honourable Mr. MUNGULDASS said that if it pleased the Council better, he was willing that it should declare a limit upon the house tax, town dues, and so forth. Several gentlemen in the mofussil had written to him to the effect that though they did not like to come publicly forward to say so, still they would like the Council to fix a limit upon Municipal taxation. It must not be forgotten that by this Bill a Municipality might be created anywhere whether the inhabitants liked it or not, and for that reason it would inspire confidence in the intentions of Government if the Council were to fix this limit.

The Honourable Mr. BYTHELL said that the Honourable Mr. Munguldass had just pointed out an important fact.

The Honourable Mr. GIBBS observed that no section however here gave Government power to tax; the people in Municipalities must agree to tax themselves.

The Honourable Mr. BYTHELL said that there was much in that objection, but there was more in the fact that by fixing no limit to taxation, unlimited taxation by the power of Collectors in the districts might spring up everywhere in the Presidency. There were very good officers in the city of Bombay, nevertheless the taxation there is increased so enormously that Government had recently to interfere.

After some further discussion the Honourable Mr. Munguldass' motion was put to the vote and lost :—

Ayes—4.	*Noes*—5.
The Honourable MUNGULDASS NUTHOOBHOY.	The Honourable A. ROGERS.
The Honourable Sir JAMSETJEE JEJEEBHOY.	The Honourable J. GIBBS.
The Honourable NARAYAN VASUDEVJEE.	The Honourable Colonel M. K. KENNEDY.
The Honourable J. K. BYTHELL.	The Honourable E. W. RAVENSCROFT.
	The Honourable Colonel W. C. ANDERSON.

The Honourable Mr. GIBBS suggested that in lines 11 and 12 of Section XIV. the words " or any officer duly authorised by him " should be struck out; and that paragraph F. in the second clause should terminate at " bye-laws " in the 59th line.

The alterations were agreed to.

The Honourable Mr. GIBBS proposed that the following be added as clause 2 to Section XVI. :—The Governor in Council may, from time to time, on the representation of the Municipality concerned, alter the limits of any Municipal District constituted under this Act: provided that such alteration shall not be effected until after notification of intention and hearing of objections in the manner provided in Clauses 1, 2, and 3 of Section IV.

The motion was put and agreed to.

The Honourable Mr. GIBBS moved that in line 8, Section XX., after the word "provided" there should be added the words "such Municipality shall cease to exist and".

The amendment was agreed to.

The Honourable Mr. GIBBS moved that the following words should be added to Section XXI. as clause 4 :—"The above provisions of this section shall not be applicable in the first instance to Municipalities formed under Act XXVI. of 1850, which the Governor in Council may have constituted as Municipal Districts under this Act. In all such cases the taxes, tolls, or other imposts which may have been in force under Act XXVI. of 1850 shall continue in force until altered or abolished."

The amendment was agreed to.

The Honourable Mr. MUNGULDASS proposed that in Section XXIV., line 18, after the word "opinion" the following proviso should be added :—"Provided that such proportion of charges shall not exceed one-fifth of the total annual income of the Municipality."

The amendment was agreed to.

The Honourable Mr. GIBBS proposed that the following proviso should be added to clause 2 :—"Provided that all sales of lands or buildings shall be subject to the previous sanction of the Governor in Council or of any officer duly authorized by him."

The motion was put and agreed to.

The Honourable Mr. GIBBS moved that in line 6, Section LXIV., "or endanger" should be inserted after "obstruct."

The amendment was agreed to.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay, 31*st October* 1873.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS' ACT, 1861."

The Council met at Bombay on Tuesday, the 4th November 1873, at noon.

PRESENT:

His Excellency the Honourable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable Colonel W. C. ANDERSON.

The order of the day was the third reading of Bill No. 8 of 1873—a Bill for the better management of Municipal Affairs in Mofussil Towns and Cities.

Consideration of the District Municipal Bill resumed.

The Honourable Mr. GIBBS, before moving the third reading of this Bill, requested the Council to resume consideration of it in detail in order that a few amendments, chiefly verbal, might be made therein. The Council accordingly proceeded to re-consider the Bill.

In line 7, Section XLII., the word "the" was substituted for "this." In line 2, Section LXXXIV., it was considered necessary to insert the words "or under the bye-laws made in accordance with the provisions of this Act" between "Act" and "may"; and in line 10 of the same section the words "stallage and other rents and fees" were inserted after "taxes." In lines 21 and 22 the words "accrual of the cause of action" were omitted and the words "passing of the final order by the Municipality or officer having power to pass such an order" substituted. In Section XCIX. the words "and to the Commissioner in Sind, in the event of the Act being extended to that province," were omitted, because under the Act passed in 1864 the Government of Bombay had already power to confer upon the Commissioner in Sind any of the powers of Government under certain Acts, one of which would be the present.

Mr. Gibbs moves the third reading of the Bill.

The Honourable Mr. GIBBS, in moving the third reading of the Bill, said—In moving the third reading, I shall make a few observations with reference to those which His Excellency made at the last meeting of Council, in regard to the charge of legislating too hastily for this Presidency. So far as I can make out, the rule which some of the Native and European papers wish to lay down for our guidance is that the rate at which we legislate ought to be in exact proportion to the capabilities of the people of this country to understand each step we take. His Excellency will, I think, agree with me that such a rule is rather an unreasonable one. The complaint of hasty legislation cannot, I think, justly be brought against this Government, so far as this Bill is concerned. It was first published in the month of August last, and submitted to a Select Committee, whose report

was made on the 18th September and forthwith given to the public. Up to the present time I find that the great majority of the communications which have been made to the Council with regard to this Bill apply only to portions of it, which, though appearing in the Bill when it was first published, were nevertheless disposed of by the Select Committee. I am therefore rather puzzled to know how long the objectors would like a Bill to be published in the *Government Gazette* before it should be brought up for a third reading. I know that few Bills can receive the approbation of everybody, and this will be no exception, but I may say this much, that it has been sufficiently long before the public to enable those who take an interest in it to form their objections upon it and lay them before the Council. I hold a rather long memorandum which has been prepared for me by one of the most hardworked Native Judges of this Presidency. This memorandum, I may state, is the second which I have received from the same person and the first was quite as bulky as this is. Having had great experience in the working of municipalities throughout the Presidency, he thought his opinions might be of use to me, and therefore he spared no pains to give the Bill his consideration. When this gentleman, with all the business of a Court to perform, has been able to do this much, I think that the Associations which have lately sprung up here should, if they desired to be credited with being really useful Associations, have taken an equal amount of trouble in the matter and laid before us their objections to the Bill after the Select Committee published their report upon it. I think then that while we cannot be accused of undue haste in legislating, such Associations as these may very justly be charged with not making the haste which common sense might have taught them to be necessary. The Bill has been under consideration of Government for some years past, and has had the benefit of the criticisms of our ablest Revenue officers, while it has also been carefully gone over section by section in the Select Committee of this Council, each section having also been considered with reference to the objections taken to it in the petitions which were sent in from the Poona and Ahmadabad Associations. For myself, and my connection with the Bill, I may say this much, that the measure was not drafted by me—that I have looked at it, not as at a child of my own, but as a pupil placed under my charge, which it was my duty to train in such a manner as might make it a useful addition to the statute book. That the Bill will be a useful addition to the statute book I trust and believe. It has been assailed both inside and outside of the Council as a measure designed by Government to impose additional taxation upon the already over-taxed ryot of the country. My honourable friend Mr. Munguldass is very fond of telling us that the ryot was and is over-taxed, but I do not think the honourable member has any more data to go upon than that of a gentleman at home who retires from business and takes to farming, viz., that he finds it to be a very expensive luxury. I think it right to take this opportunity of letting the public know that this very important subject of taxation has lately been receiving the attention of Government, and that this year the first steps have been taken towards making experiments by which the incidence of taxation in relation to the gross produce of the cultivator may be to a certain extent arrived at. The plan proposed was something of this description. In different villages in different parts of the country certain pieces of land, illustrative of the varieties of soil which are to be met with throughout the Presidency, were selected, and with the consent of the cultivator from a carefully measured portion the produce was carefully threshed and valued by an officer of the Revenue or the Survey Department, Government paying the expenses.

Experiments showing the proportion of assessment on land to the value of the produce of the land.

Within the last week the results of a few of these experiments have been received by Government, and it would appear from very carefully prepared statistics of experiments conducted in Poona, Ahmadnagar, and Sholapur, that on bajree and jowaree land the assessment bears the proportion of one-twelfth to the value of the gross produce of the land; in other places, where there are wheat crops, the assessment bears the proportion of one-twentieth to the value of the produce. I do not think that these assessments can be said to bear heavily upon the ryot. In Guzerat, where fewer experiments were tried, and where it is known that the land is richer and more valuable than it is in any other part of the Presidency, the assessment does not seem to exceed one-sixth of the total value of production. Certainly it may be said that these experiments are not conclusive—I do not wish it to be supposed that Government thinks them to be conclusive, because it will take years before results can be received in such a state, as to number and preparation, that a correct estimate can possibly be made--but I think that when we find that a certain number of experiments, conducted by European gentlemen who are anxious to obtain true results on behalf of Government, have turned out in the manner I have mentioned, honourable members ought not to persist in their cry that the ryot is over-assessed until they have better proof of their assertion. There is one other matter which I may remark upon in connection with burdens upon the poor cultivator. I think it right that I should take this opportunity of letting the public into a secret which Government became possessed of a short time ago. During last monsoon a native official of many years' standing, and very high in the service of Government, happened to go upon private business towards the south of the Presidency. On his way from Poona to Madras he put up at the Sholapur dhurrumsala. In the evening he found a good many native cultivators and patels coming into the dhurrumsala. He asked them what was the object of their coming. They said it was about the new assessments. He asked them if they found these assessments oppressive, and they replied that they were not—that they were quite willing to pay them—but that the fact was that they had come there because the Vakeels' Association had told them if they met together and made an outcry Government might take the assessment off altogether. That fact the native gentleman thought it his duty to communicate at once to my honourable friend Mr. Rogers, who told me of it. I mention this incident to the Council wth no other comment than this, that I believe it to be entirely true. I think this Council has taken into the most careful consideration every suggestion with respect to the Bill which has been offered to us, and I am sure that on every occasion where there was the fear of the Bill proving oppressive, either the Select Committee, or subsequently the full Council, took steps to obviate it. In its working I think this Bill will rectify many of the abuses which at present exist regarding Municipalities. I do not believe that the taxation of Municipalities will be in any way increased. I believe that by this Bill the people of the country will have greater opportunities than hitherto of objecting to taxation, because they will have more opportunities of understanding what taxation it is proposed to levy on them. One of the chief points in the Bill objected to by almost all the petitioners and memorialists has been the change which we propose in the manner of constituting Municipalities, the old system being that a Municipality could not be created unless the people wished it, and the new system being that Government may declare where a Municipality must be created. But this principle is not one originating with this Government. It is the policy of the Supreme Government, and it is the principle which has been imported into all the Municipal Bills which have lately been introduced into the Council of the

Governor General. By this Council agreeing to it in this Bill we shall simply secure one principle in the matter being the rule throughout the Indian Empire. When I introduced this Bill to the Council I stated my views regarding the value of this principle, and I need not repeat them here. In the Bill as it originally stood there were some sections which I approved of more than I do those which were substituted for them during the second reading of the Bill. I specially refer to the alterations made in the section which indicated what taxes Municipalities might choose to impose upon themselves. In the debates which took place upon the Central Provinces Municipal Bill I find it stated that the introduction of such a list of taxes might frighten the people. A similar argument was used against the section here, but I cannot agree that the mere printing of a list of taxes from which any Municipality may choose one or more would in the least frighten any of the inhabitants of this Presidency. However, the Council have determined to leave out the list, and although I as an individual can only say I am sorry for it, yet I must be content to accept the Council's decision. I think the division of the Act into portions for city and town municipalities will prove of very great service. There is no doubt that many of the larger towns of the Presidency, such as Poona, Surat, and the like, are daily growing larger, and in them we find many large spinning and weaving companies starting. To such places the Act will prove of great value, as there can be no doubt that they are ready for more elaborate systems of sanitation and conservancy. I believe, generally speaking, that the working of this Act will in effect be this, that the larger towns will approach nearer to the condition of things which prevails in Bombay, whereas in the smaller ones things will go on very much as they do at present under the old Act. On the whole, I think the Bill will do a great deal of good; that by it small towns will certainly not be losers, while large ones will certainly be gainers. With these remarks, I beg to move the third reading of this Bill.

The Honourable Mr. NARAYAN—Sir,—The honourable member has referred to the question of the revenue assessment in this Presidency. I might be allowed to mention that in the evidence which Colonel Francis gave before the Judge at Ratnagiri in the Khote case, he stated that Government levied one-fifth or one-sixth of the gross value of the produce of the land. On the other hand, the Khotes contended that the average assessment amounted to one-third.

The Honourable Colonel ANDERSON—I think it is possible that Colonel Francis may have stated that in some particular cases the assessment might roughly be said to be one-sixth or one-fifth upon the gross produce, but I am certain he never said that the assessment is systematically at the rate of one-fifth or one-sixth upon the gross produce of the land. This would be a most unfair standard to adopt, because though a fifth, or even a fourth of assessment might be obtained from rich soil, yet it would be impossible to get as much as that from poor land, owing to the various expenses of cultivation. The simple assertion of Colonel Francis ever having stated that it is the custom of the Revenue Survey officers to take one-fifth of the value of the produce of the land as assessment I must deny.

The Honourable Mr. NARAYAN observed that possibly the honourable gentleman might allow Colonel Francis to be a competent witness on the point.

His Excellency the PRESIDENT thought he must interpose here. He remarked that as the assessment had very little to do with the passing of this Bill the Council was drifting into rather an irregular discussion.

The Honourable Mr. NARAYAN having hereupon observed that the mover of the Bill started the subject,

His Excellency the PRESIDENT replied that the mover of the Bill gave certain information, but the Council was now being drawn into a discussion upon the Revenue Survey.

The Honourable Mr. MUNGULDASS NUTHOOBHOY said that he quite concurred with His Excellency that this Bill had nothing to do with the question of land revenue. Yet he must remark that he held land in Tanna and Poona districts, and he believed the Honourable Mr. Narayan did so in Salsette, and their experience of the weight of land assessment in proportion to its produce was quite the reverse of what had been stated by the Honourable Mr. Gibbs. He thanked the honourable member in charge of the Bill and the Council for consenting to all the minor amendments which he proposed at the last meeting. The only amendment which had been thrown out had been however, in his opinion, the most important to protect the interests of the people, viz., that relating to fixing a maximum limit to the municipal taxation. He was therefore, he said, compelled to vote with great reluctance against the third reading of the Bill. If this amendment had been adopted he would in deference to the opinion of the Honourable Mr. Gibbs have waived all other objections which he raised at the second reading, and which the petitioners had pointed out in their respective petitions, and would not have opposed the third reading.

Mr. Munguldass opposes third reading because his amendment fixing a maximum limit of taxation for Municipalities was not agreed to.

The Honourable Mr. ROGERS—I am afraid that my honourable friend Mr. Munguldass rather misunderstands the whole state of the case when he regrets so much that his amendment as to the maximum limit of taxation was not carried. This taxation is not in the hands of Government ; it is the people or their representatives who are, according to the present state of this Bill, made responsible. Government has no power whatever to take the initiative, but surely, if the people will tax themselves, Government may be trusted to see that this taxation does not go beyond reasonable limits. I was one of the members of the original committee which was appointed in 1870 to consider this Bill. That committee was composed of two Revenue Commissioners and a number of the most experienced Collectors in the Presidency. The whole question was discussed by them, and the main principles of the Bill as we now find it were then agreed to. The only difference in principle which this Bill possesses from Act XXVI. of 1850 is that instead of the former practice being adhered to of allowing the people themselves to ask for the introduction of municipal institutions, Government will now be vested with the power of directing this to be done after due inquiry and due notification in the *Government Gazette*. Anybody who has had experience as to the working of Act XXVI. must know that the introduction of municipal institutions only at the request of natives in the mofussil was a perfect farce. The people themselves never came voluntarily forward to ask for a Municipality. This was almost invariably managed for them by some smart Assistant Collector or some zealous Mamlutdar, who got up a petition to be signed by the people without their knowing anything whatever as to the reason why they were to attach their signatures to the petition. It was in consequence of this state of matters that the committee thought that the best plan to adopt to put an end to the farce throughout the whole Presidency, was to give Government the power to introduce municipal institutions in certain places when it thought fit to do so. So much did the old system militate against the general progress of the

country, and more especially of the large mofussil towns, that I have known several cases in which even the zealous Assistant Collector or Mamlutdar was unable to get the people to sign the petition for the erection of a Municipality. I allude particularly to the case of Unclesur, in Broach—a place which, among all the abominable stinking places I have met with, is conspicuous. Anybody who knows Unclesur will now be delighted that this Bill has passed, because by the exertions of a Municipality an advantageous system of conservancy will be introduced. There are many places in the Presidency which are also in a very bad sanitary condition, and I believe that the chief reason of this is just because Government has not hitherto had the power to declare the erection of a municipal institution where it was urgently required.

Mr. Narayan wishes third reading to be postponed.

The Honourable Mr. NARAYAN VASUDEVJEE—I would submit, Sir, that no Bill can be held to be fairly before the public, until it has passed the second reading. Now as this Bill did not go through that ordeal until the 4th ultimo, and the report of the proceedings has not yet been published, I do hope that the honourable mover would consent to a postponement, because I think it cannot be the desire of Government to precipitate a measure of so extensive an application without affording to all concerned the most ample opportunity of expressing their views to this Council. The Poona Sarvajanik Sabha in their petition ask for more extended time. They say, "The Bill under consideration was read for the first time on the 11th August, &c." This Bill has been under the consideration of Government for the last three years, while the public have not yet had three months. I do not see what necessity there is in hastening it into law.

His Excellency the PRESIDENT asked whether the Poona Association did not memorialise upon the first draft of the Bill ?

The Honourable Mr. NARAYAN having replied in the affirmative,

His Excellency the PRESIDENT said—Then everything which they suggested was fully considered. Three whole months have passed since the Bill was published in the *Government Gazette*, and I would suggest that it is not obligatory that public business should stand still merely to allow that or any other association to repeat their suggestions. In point of fact, I believe that the whole of the alterations in the Bill have been made in the direction which the Poona Association desired, and certainly nothing has been put into this Bill more obnoxious than the first draft of it contained. Therefore I cannot consider that any advantage would be gained by postponing the passing of this Bill.

The Honourable Mr. NARAYAN said that there could be no particular hurry now to pass the Bill, because it was as long ago as 1870 that a Committee was appointed to report upon the advisability of introducing this Bill.

His Excellency the PRESIDENT remarked that it was then much to the credit of Government that it had deliberated so well upon the measure before introducing it.

The Honourable Colonel ANDERSON—If it takes a tailor three days to make a suit of clothes it does not take a person three days to consider whether it fits him or not. Yet this is practically the argument of the Honourable Mr. Narayan, who thinks that because it is three years ago since Government thought of preparing the Bill, other three years should be spent before we pass it.

The Honourable Mr. NARAYAN said that was not his argument. The Bill could not be fairly before the public until after its second reading.

His Excellency the PRESIDENT observed that the publication of a Bill on the first instance was an intimation that Government was going to invite the Council to affirm its principles, and when the public then came forward to state their opinion little else was needed.

The Honourable Mr. NARAYAN said that in cases of this kind, where the Council declined to receive vernacular petitions, and the public had not had time to consider the Bill, a little delay might be given.

The Honourable Mr. GIBBS said that he had nothing new to say upon the motion, as all the observations made against the third reading had been fully met by His Excellency and others.

The motion was then put to the vote and carried:—

Ayes—5.	*Noes*—3.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. GIBBS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	
The Honourable Colonel W. C. ANDERSON.	

Bill read a third time and passed.

The Bill was then read a third time and passed.

The President's observations relating to the Hereditary Offices Bill.

Before the Council proceeded to re-consider the Hereditary Offices Bill (No. 12 of 1873), His Excellency the PRESIDENT made the following observations:—Before the Honourable Mr. Rogers moves that the consideration of the Hereditary Offices Bill be resumed, I would like to say a few words as to the course which we propose to take, and the course which we have taken hitherto in regard to this Bill. Although we had to abandon consideration of the Bill when we were in Poona, yet I do not think our proceedings were in any way discreditable to this Council when the real nature of the Bill is kept in view. It affects, as we came to learn very fully from the discussions, the details of the whole civil administration of this Presidency, and also, I may say, the social position of the whole body of the rural population. It is therefore nothing but creditable to this Council that amid all these difficulties we should so perseveringly have gone on with its consideration. Thanks to this Bill, I think we now know nearly as much about some of the details of the customs of village communities as men who have spent their lives in the districts. What we supposed at first to be quite suitable for the whole Presidency, we have learned to be suitable only for a portion of it, and it therefore required the greatest caution in order to meet the different cases. The Council will remember that it was agreed in Poona that after the close of the present discussions the Bill should be again put before the public, in order that the fullest and freest discussion might take place upon it before this Council finally passes it. Since the last stage of the discussions it has been examined very closely by gentlemen most competent to give advice upon the subject. Last Saturday they spent several hours in going through the measure and its intricate details, and the result is that very considerable modifications on several clauses will be proposed by Government and will now be moved in detail by the Honourable Mr. Rogers

for acceptance by the Council. I would suggest to the honourable members that it would be advisable at the present stage of the proceedings to allow these alterations to be made in the Bill, on the understanding that it will be carefully translated and published and that a discussion of points objected to may be taken afterwards. I think if we were to go into all these amendments just now upon their merits we should not be able to finish the discussion for several days. On the other hand, if we adopt these amendments now, the public will have ample time to consider them carefully before the Council meet again in February next.

The Honourable Mr. NARAYAN and the Honourable Mr. MUNGULDASS approved of the course suggested by His Excellency.

Mr. Rogers moves that the consideration of the Bill be resumed and at the same time says a few words upon what had been stated in a newspaper that the Bill was a "confiscatory" measure.

The Honourable Mr. ROGERS—Before going into the details of this measure I wish to say a few words upon something which has appeared in one of the Bombay newspapers. There is a paper called the *Argus*—a name which under ordinary circumstances should imply that its characteristic is being wideawake—which last Saturday, in referring to the Wuttundars Bill, had the effrontery to say that it was a "confiscatory" measure. Nothing more absurd or false could be said about the Bill. It has been explained in this Council from the time the Bill was introduced that all that Government wished to do was to define the existing rights of hereditary officers, and why this newspaper should try to mislead its readers by saying this measure is a confiscatory one is more than I can understand. With these few preliminary remarks I shall now proceed to the details of the Bill. Several new interpretation clauses will have to be inserted in the measure, and in doing so I need scarcely point out to the Council how much the success of the Act depends upon these very interpretation clauses. Much of the difficulty which we experienced formerly when dealing with this Bill arose from the deficiencies in the interpretations, and I trust that what I am now about to propose will simplify our future procedure. After consulting several Revenue Officers of great experience, we have come to the conclusion that the amended list of definitions which I am about to propose will meet all possible cases that can arise. In line 4 of Section IV. we shall insert "property" after "wuttun," and in line 11 the same word will be inserted after "wuttun." We next propose to define a wuttun in these words—"The wuttun property and the hereditary office and the rights and privileges attached to them constitute the wuttun." In the paragraph defining a "wuttundar" I propose to omit "beneficial" in the second line of the paragraph, that word being of no consequence, inasmuch as "hereditary interest" expresses all that is meant. Instead of the proviso in this paragraph, I propose the insertion of the following provision:—"Provided that in cases of adoption made since the village came under Government by any wuttundar head of a family of the degree of patel or koolkurnie or of higher degree, the Government has assented to such adoption." The Council will recollect that in the discussion upon this Bill there was a good deal of discussion as to the meaning of a "representative wuttundar." I at that time wished the "representative wuttundar" to be a representative of the wuttun generally and not a person simply performing the services of the wuttun. I have subsequently modified my views, and now agree that the "representative wuttundar" shall mean the "officiator." The following therefore is the clause which we propose to substitute for the clause at present defining a "representative wuttundar":—"Representative wuttundar means a

wuttundar head of a family registered by the Collector under the provisions of this Act as having a right to perform the duties of a hereditary office." The definition of a "family" which we propose to adopt is as follows :—"Family or ghur means each of the branches of the family descended from the original wuttundar, provided that no sub-division made during the last thirty years shall be recognised." The reason of this alteration is that thirty years ago was the time of the introduction of Act XI. of 1843, which recognized the sub-division of wuttuns, and since that time and in consequence of the introduction of that principle much of the confusion has arisen which exists now. Having defined what a "family" is we now proceed to define the "head of a family," thus:—"The head of a family means the eldest existing representative of a family." The definition of "officiator" we propose to allow to stand unaltered. In Part II. of the Act the heading will simply be altered so as to suit the changes in the definitions. It is not necessary to provide specially for Tuksheemdars now that we have defined "the head of a family" so clearly. The heading of Part II. will therefore be "Watan property and profits thereof." Section V. will read as follows:—"No watandar shall, without the sanction of Government, sell, mortgage, or otherwise alienate or assign any watan or part thereof to any person not a watandar of the same watan." In the next section "property" will be inserted after "watan" in the first and third lines. In Section VII. instead of "watan property" in lines 2 and 3 we shall have "watan or part thereof"; in place of "village revenue records" in lines 4 and 5 we shall merely insert "revenue records"; in line 12 we shall substitute "records" for "accounts"; and the last three lines we shall alter so as to make them read thus: "decree that such alienation from the date of decree shall revert to the watan." An objection was raised to the use of the word "rack-rent" in Section 8 and we have therefore reverted to the original words of the draft, so that instead of "rack-rent" the words will be "the full rent ordinarily paid by sub-tenants of land of similar description in the same locality." Section IX. we propose to amend in order to make it consonant with the previous amendments, and altogether it will then read as follows:—"When it shall appear to the Collector that any such watan property recorded as such in the revenue records or registered under this Act has after the date of this Act coming into force been so alienated, the Collector shall, after recording his reasons in writing, either summarily resume such property, or assess it at the rate prescribed in Section VIII. of this Act, as he may think fit, and it shall thenceforward revert to the watan property in question." In line 4 of Section X. "property" will be inserted after "watan" and in line 5 "passed" will be substituted for "been given." To this section we propose to introduce the following new clause:—"If any such decree is made after the passing of this Act the provisions of Section 9 of this Act shall apply." That is to say, that as by this Act a watan is declared most distinctly to be inalienable in any way whatever without the consent of Government, a decree of a Civil Court shall not have power to confirm this alienation. In Section XI. "property" will be inserted after "watan" in each place where "watan" occurs. The greater portion of Section 12 is considered to be unnecessary, and as amended it will read as follows:—"It shall be lawful for a Collector, for reasons to be stated in writing, to combine two or more watans held for the performance of similar services, whether in the same or adjacent villages." In Section XIV. "property" is inserted after "watan." The first two lines of Section 15 will read as follows:—"When all or any of the property of a watan consists of a right," &c. As to the second paragraph, it was represented that the time of three days given to the Punchayet to come to a decision was too short, and therefore we shall substitute "seven" for "three" and by substituting

"may" for "shall" in line 26 we leave it optional for the Collector to pass a decision if he chooses. In Section XVI. we shall substitute "assess" for "fix" in line 9, and owing to the difficulty of finding the value of watans for a long period of years, we propose to make the section terminate at "money" in line 9, thus leaving out "on an average of the past ten years immediately preceding the date of this Act coming into force." The heading of Part IV. will be "Creation and lapse of watans," and Section XIX. we propose to alter so as to read as follows:—"When no watan exists, it shall be lawful for Government to create one, and in so doing to assign such property of Government, as to Government may seem fit. Such watan shall be subject to all the provisions of this Act, and the watandars shall exercise the power and perform the duties conferred and imposed by this Act, and any other law for the time being in force. When a watan or part of a watan has lapsed or has been confiscated or otherwise lawfully resumed by Government it shall be lawful for Government to assign such watan or part of a watan to such person or persons as to Government may seem fit." To make this section more clear, we introduce into the Bill the following illustration :—"In the village of Hossatotta there are two parts in the Kulkurni watan, one held by Brahmans, the other by Lingayets. Government confiscates the former for the misconduct of the officiator. Government may assign the confiscated part to any person." In the second paragraph of Section 20 the first three lines will be as follows:—"It shall be lawful for the Collector for this purpose to assign watan property or the profits thereof," &c. In Section 21 for the words "watandars entitled to officiate" the words "representative watandars" will be substituted. In the same section the words "and as watandars entitled to officiate" will be omitted. Section 23 has been altered to suit the change of definition, and will read as follows:—"In determining what heads of families shall be recognised as representative watandars, and what is the custom of the watan as to service, the Collector shall take into consideration," &c.; and to the end of the section we shall add, "and where Government registers exist he shall carefully examine them." These latter words will save a great deal of trouble to Collectors who have had to take a great deal of trouble in framing entries within the last few years, and in future they will be saved from going over the same ground again, and although these entries must be taken into consideration where they exist yet the Collectors will not be bound by them. Section 24 we shall alter considerably, so that it may read as follows :—"If it shall appear to the Collector that the practice has been to appoint a member of one family only, the Collector shall register the name of the head of such family only as the representative watandar and no other person." To this we propose to add the following illustration:—"Three families have been officially recognized for the last thirty years as owners respectively of an eight-anna, a six-anna and a two-anna share in a watan. The shares and the names of the head of the three families will be registered as such under Section 57, clause *d.*, of this Act. But if the service has always been performed by or on behalf of the family owning the two-anna share, the head of that family alone will be registered under Section 57, clause *c.*, as representative watandar." Section 25 we propose to amend as follows:—"If it shall appear to the Collector that the practice has been for a member of each of several families to perform the duties either contemporaneously or for successive periods, the Collector shall register the name of the head of each of such families as representative watandars and no other persons, and where the practice of service in successive periods is proved to exist, he shall decide the order in which the representative watandars shall officiate." We shall strike out the next three sections and substitute others. The new section will be—"Where the practice of service in successive periods appears to have existed but is

not proved to the satisfaction of the Collector to have existed for thirty years or more or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original watandar and shall register his name as sole representative watandar." To this we add the following illustrations : (1) "The nephew of the two-anna sharer in the illustration of Section 24 of this Act has performed the duties for thirty years during his uncle's residence at Benares and by his uncle's permission. But the nephew's share in the watan has never been officially recognized. The uncle is the head of the family to which the right of service belongs, *i.e.*, the representative watandar, and not the nephew: the nephew is only a member, not the head of a family, as defined in this Act. (2) The Collector is satisfied that in A.D. 1842 the watan was held by two eight-anna sharers, each having a right to serve in consecutive periods, and that the practice of consecutive service has continued ever since. The head of each of the two families will be registered as a representative watandar. (3) In A.D. 1845 one of these sharers died leaving two sons whose names were registered at the time as four-anna sharers. They have alternated with each other and with the eight-anna sharer in performing the duties. The custom of having three families with a right to serve not being thirty years' old, the Collector will only register two representative watandars, viz., the eight-anna sharer and the eldest of the two four-anna sharers." As Section XXVII. we propose to insert the following in the Bill: "But if in the case described in Section 26 of this Act the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing or have in writing agreed during the enquiry made in the preparation of the existing registers as to who are the representative watandars and as to the order of service, then the Register prescribed in this Act shall be prepared in accordance." The present Section 29 will become 28 and the first few words will be altered as follows :—" When watan property or profits have been," &c. Section 30 we strike out, as the alterations made upon the definitions leave no further necessity for it. In the third and fourth lines of Section 31 as printed, and in line 12, we strike out " or watandar entitled to officiate," and add the following illustration to the sections :— " Malji produces a certificate declaring that he is the heir of a deceased representative Patelki Watandar as being his adopted son. It is not stated therein that Government had sanctioned the adoption. The certificate will not of itself be sufficient warrant for the entry of Malji's name in place of the deceased." In Section 32 as printed we strike out " or watandar entitled to officiate." We next strike out nearly the whole of the part of the Bill which relates to " Rotation periods of service," and for Sections 33, 34, 35, 36, and 37, we substitute the ollowing section which under the new form of the Act will become Section 31 :—" The periods during which a representative watandar shall perform the duties shall be as follows: In watans registered under Sections 24, 26, and 27 the period of service shall be for life. In watans registered under Section 25 of this Act the period of service if contemporaneous shall be for life, and if in successive periods for not less than years." The present Section 38 will now become Section 32. Section 39 as printed will go out, and the following section will become Section 33 :—" The sole representative watandar or where there are more than one the representative watandar whose turn it is to officiate shall, if a fit and proper person, on being so required by the Collector, perform the duties of the hereditary office himself unless permitted by the Collector to appoint a deputy, who shall be a fit and proper person." In Section 43 as printed we substitute " representative watandar" for " watandar entitled to officiate." In Section 45 as printed we insert " representative"

before " watandar " in the first line, and add the words " or deceased " to the end of the section. The first part of Section XLVI. as printed will read as follows :—" When a representative watandar has been rejected," &c. In the second line of Section XLVIII. as printed, " representative " will be inserted before " watandar." In the third line of Section XLIX. as printed we substitute the words " none but a watandar " for the words " no stranger," and in the sixth line we substitute the words " any representative watandar" for the words " a watandar entitled to officiate." Section LII. goes out, and the following will be substituted :—" When the hereditary right to perform the duties of a hereditary office as deputies of the original watandar is vested in a family or families distinct from that of the original watandar, the custom shall be recognised and the heads of the families entitled to perform the duties shall be registered and treated as representative watandars interested in a division of a watan." In the second and third lines of Section LIII. as printed we omit the words " punish officiators," substituting the word " suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator "; and we strike out lines 9, 10, and 11, substituting the words : " The order of the Collector shall be final in such cases except the penalty is inflicted on a hereditary district officer." In Section 55, as printed, we insert " or continuance," before " in," in line 5, and in lines 7 and 8 substitute " representative watandar" for the words " watandar entitled to officiate." The first three lines of Section 56 will read thus :—" When any representative watandar or any deputy appointed by him as such is convicted," &c. ; and in lines 9 and 10 we strike out " life interest of such officiator in " and substitute " whole or part of."

The Honourable Mr. NARAYAN—Here the honourable gentleman is striking out again my amendment which the Council has already adopted with respect to making the life interests of offending watandars alone liable to confiscation for the offence.

His Excellency the PRESIDENT—We may agree to the alteration *pro formâ* at present and afterwards the matter may be discussed when the Bill comes again before us in its amended shape.

The Honourable Mr. ROGERS—To Section 56 we attach the following explanation :—" Where the deputy is appointed by the Collector the forfeiture shall not take place. In the draft originally prepared by the Revenue Committee there was a provision that the whole of these inferior watandars should be held jointly responsible for the proper performance of the watan duties, in the same manner as a headman in certain villages becomes responsible to the British Government for the proper conduct of the villagers, and it has been considered that in the present state of the country it would be dangerous to adopt the principle of the forfeiture of a life interest to which the Honourable Mr. Narayan has referred. In Section 57 as printed we shall insert " representative " before " watandars " in line 7, and strike out all the section after " watan " in line 11, inserting after " watan " the words " whether the officiator guilty of misconduct be a representative watandar or a deputy." To the end of paragraph " *c*" in Section LX. as printed we shall add—" The Collector shall also provide for the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives." The first few lines of Section 61 will read as follows:—" The Collector shall prepare and keep all registers necessary for the purposes of this Act in the form which Government " &c. In the first line of the next section we insert " In " at the beginning and the words

"the Collector" after service in line 4. Similar alterations will be made on the first paragraph of Section LXIII. as printed. In paragraph "*b*" we insert the words "heads of families and of the" before "representative," and finish the paragraph at "watandars." Paragraph "*c*" we amend considerably, and it will read thus:—"Whether the service is performed by one representative watandar or not; if by several in successive periods, the order in which they are to succeed each other." Paragraph "*d*" will read thus:—"The proportional share of the watan possessed by each head of family, which may be expressed in annas or fractions of a rupee." Section LXIV. as printed will read thus:—"The register kept under this Act shall be corrected or added to on the occasion of any change being made in the hereditary office or of the death of a representative watandar or the creation of a new watan." In Section LXVII. as printed we strike out lines 5 and 6, inserting the words "head of a family" after "every" in line 4, and also omit the whole of the section after "sign" in line 10. In Section LXIX. we strike out of lines 6 and 7 the words "whether a custom of rotation exists," substituting the words "the custom of the watan as to service." In line 8 we insert the words "heads of families or" before the word "representative," and strike out "or officiating" in lines 8 and 9. In line 15, after "investigation," we insert the words "and in removals from office under Section 48." In the second line of Section LXII. we insert after "made" the words "under Section LIV., Clause *d* of this Act," and at the end of the section:—"No appeal shall lie from any order registering any fact specified under Section 57, Clauses *b*, *c*, *d* and *e*, where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept by orders of Government." After Section LXXVI. as printed we insert the following new section:—"Nothing in this Act contained shall be deemed to affect the jurisdiction of the Civil Courts except where special provision has been made giving jurisdiction to the Collector or Government." We have now reached the end of the alterations. I can assure this Council, especially those members of it who have not had an opportunity of going into the details of the Bill, that I, as an old revenue officer, am perfectly satisfied that the Bill, as it is now amended, will injure nobody's interests, but will on the contrary suitably serve its purpose of defining and affirming existing rights.

The Honourable Colonel ANDERSON said that one advantage of the Bill as now amended was, that every ancient wuttun family property would be kept intact and would not be allowed to fall into the hands of usurers and such like people.

The Council agreed to the alterations *pro tem.*

Consideration of the Steam Vessels Survey Amendment Act Bill resumed.

The Honourable Colonel KENNEDY, in moving that the Steam Vessels Survey Amendment Act Bill (No. 9 of 1873) be reconsidered, said,—Sir,—Before moving the third reading of this Bill I think the Council ought to resume consideration of the Bill in detail, because I have several amendments to propose upon it. It will be within the recollection of the Council that upon the last occasion when the Bill was considered it was stated that a letter raising one or two objections had been received from the Government of India. One objection was with reference to the penal clauses, which the Government of India said they would not object to so long as those classes did not clash with the provisions of imperial statutes. The letter did not say in what respect these clauses were faulty, and inquiries which we have recently made do not lead us

to see where any such clashing can occur. Therefore that part of the Government of India letter may be passed over. The next objection raised was regarding the examination of Engineers holding certificates from the Board of Trade under the provisions of XXV. and XXVI. Vic., cap. 63, and the Government of India observed that the section in the Bill referring to this matter was superfluous. It appears that Engineers get certificates from the Board of Trade just as Masters of vessels do. I consulted my honourable and learned friend Mr. Gibbs as to how the objection raised by the Government of India could be done away with, and he suggested that a clause should be added to the preliminary part of the Bill in the following terms :—

"Clause 2.—The provisions of Part III. of this Act shall not apply to Engineers holding certificates of competency of service granted by the Board of Trade under the provisions of 25 and 26 Vic., cap 63."

I therefore beg to move that this clause be added to the Bill as Clause 2.

The amendment was agreed to.

Colonel Kennedy moves the third reading of the Bill.

The Honourable Colonel KENNEDY further observed as follows :—In deference to an opinion expressed by influential members of the mercantile community, ship owners, and others, we propose that the Bill should be limited to vessels carrying passengers. I shall therefore propose several amendments relating to that point. In line 14 of Section IV. I propose that the words "carrying passengers" be substituted for the word "plying." In the same section, line 18, the word "but" shall be inserted before "no". In Section V., line 8, after the word "thereof" these words should be inserted :—"if there are any passengers on board of such vessel, or if such vessel is intended to carry passengers, or"; in line 26 the word such" should be omitted, and the words "herein directed to be put to him" inserted after the word "question." In Section VI., line 2, after "that," the words "no passenger has arrived by such steam vessel, and that such steam vessel is not intended to carry passengers, or that such," should be inserted, and the word "any" omitted from line 3. In line 7 the word "steam" should be inserted before the word "vessel." In line 8 the words "to that effect" should be omitted, and the following words inserted after "hand" :—"that such steam vessel is not intended to carry passengers or is otherwise exempted from survey under Section IV. of this Act, as the case may be." Section VII. should be omitted, and the following new section substituted :—

"VII. If after the issue of a certificate under the preceding section that any steam vessel is not intended to carry passengers, and during the continuance in force of such certificate, any passenger shall be taken on board of such steam vessel the master thereof shall be liable to a penalty not exceeding 500 Rupees."

After this section another new one, based upon Section XII. of the new Merchant Shipping (Amendment) Act, which has just been passed at home on Mr. Plimsoll's motion should be inserted as follows :—

"VIII. Whenever any boiler explosion shall occur on board of any steam vessel, either during her voyage to, or after her arrival in, any port, harbour, river, or water of the Presidency of Bombay, or whenever the Governor of Bombay in Council shall have good reason to believe that any steam vessel lying in any such port, harbour, river, or water is by reason of the defective conditions of her hull, equipments, or machinery, or by reason of overloading or improper loading unfit to proceed to sea, without serious danger

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to human life, the said Governor of Bombay in Council may, if he shall think fit, direct an investigation to be made of the cause of such explosion, or a survey to be made of such steam vessel and of the hull, equipments, machinery, and cargo thereof, and the said Governor of Bombay in Council may, if he shall think fit, order any such steam vessel to be detained for the purpose of such investigation or survey, and thereupon any officer of Customs shall detain such steam vessel until ordered to be released by the said Governor of Bombay in Council."

Another section ought to be added in the following terms :—

"IX. Upon the receipt of the report of such investigation or survey the Governor of Bombay in Council may, if in his opinion such steam vessel cannot proceed to sea without serious danger to human life, make such further order as to the detention of such steam vessel, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alteration of the unloading or re-loading of cargo as the said Governor of Bombay in Council may impose, and the said Governor of Bombay in Council may also from time to time vary or add to such order."

A new section in the following terms will follow as Section X. :—

"X. If upon any investigation or survey held under the provisions of Section VIII. of this Act any steam vessel shall be shown to have been at the time of such investigation or survey unfit to proceed to sea without serious danger to human life, the expenses incurred for making such investigation or survey shall be paid by the owner of such steam vessel, but if such unfitness shall not be so shown, such expenses shall be borne by the Government."

These sections are all founded upon Mr. Plimsoll's Act. I now beg to move that these amendments be agreed to.

His Excellency the PRESIDENT thought that the Bill as it now stood would be satisfactory to the mercantile community.

The Honourable Mr. BYTHELL took the opportunity of congratulating the Council, on behalf of the mercantile community, for listening to their suggestions. The Bill as it was now proposed to amend it was exactly what those interested wished to see it, and the sooner it became law the better.

Bill read a third time and passed.

The amendments were agreed to, and the Bill was then read a third time and passed.

The Honourable Mr. BYTHELL made a few remarks in order to correct any misapprehension which members of the Council might entertain in regard to the character of the Lloyds' Association.

Time for presenting the report of the Select Committee on the Jails Bill extended.

On the motion of the Honourable Mr. ROGERS the time for presenting the report of the Select Committee on the Bombay Jails Bill (No. 11 of 1873) was extended to 16th January 1874.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under-Secretary to Government.

Bombay, 4th November 1873.